

MHOR Homes Rulemaking Public Comment Received

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From: [CARPENTER Sean * DLCD](#)
To: [CAUDEL Ingrid * DLCD](#)
Subject: Comment Submission: MHOR Homes Phase One
Date: Thursday, July 2, 2026 9:11:20 AM

City of Millersberg

To view the PDF of this rulemaking comment, please visit the [SharePoint Library here](#).

Name: Matt Straite

Email: matt.straite@millersburgoregon.gov

Rule: MHOR Homes Phase One

Organization or affiliation (optional): City of Millersburg Oregon

Comment: Millersburg does NOT require Land Use approval for single family homes. As drafted, these rules would mandate Land Use review for single family homes. This will slow down the process for building a home and add barriers that do not exist now. Please, please clarify that Land Use review NOT be required for single family homes.

From: [Mike Perham](#)
To: [DLCD Housing * DLCD](#)
Subject: MHOR comments
Date: Sunday, July 5, 2026 12:24:06 PM

Some people who received this message don't often get email from mike@perham.net. [Learn why this is important](#)

Heller Development

Hi DLCD, a few comments on the new MHOR rules:

1. It seems odd to limit the unit count to "fewer than 12". We want to be able to build 3 story single stair buildings by right everywhere in OR and have the MHOR rules allow for a 12 unit 3 floor single stair building. Otherwise I can provide 11 units and ground floor amenity space like a bike parking room but that removes a potential ground floor accessible unit.
2. The single stair rule optionally allows 4 floors now, it would be nice to see the MHOR unit count go up to 16 units so we can maximize the affordability of the units within the building under the rules today.
3. Increased 10' setbacks at 35' will trigger for 4 floor buildings and make them hard to site on many urban lots where we want to incentivize density. It would be nice to see setback flexibility where one side can be reduced to 5ft for better siting, to save a big tree, etc.

Mike and Neil
Heller Development
Portland, OR

From: [Anni Eriksson](#)
To: [CAUDEL Ingrid * DLCD](#)
Subject: PUBLIC COMMENT — OAR 660-047 (Oregon Homes): Anti-Displacement Safeguards for Low-Income Households, Fixed-Income Seniors, and Residents Navigating Complex Legal Issues or Petitioning for Redress
Date: Tuesday, July 7, 2026 2:55:29 AM

Annika Eriksson

Greetings, DLDC and MHOR RAC Members:

Division 47 streamlines housing production. **It does nothing to stop cities from destroying existing housing** through utility termination, code enforcement, and franchised service denial—then claiming "vacant" lots for redevelopment.

My experience at 12054 Chapin Ct., Oregon City demonstrates the gap.

I work limited part-time hours as a caregiver (16 hours per week, which is all I can manage under these stressful circumstances) and am actively engaged in active title litigation (*Eriksson v. Bank of New York Mellon*, Clackamas County Case No. 24CV21417). The City exploited my limited financial capacity and ongoing legal proceedings to accelerate displacement. This is not an isolated case—it is a structural pattern that can and does affect anyone with clouded title, disputed ownership, unresolved liens, or any resident navigating complex legal issues and petitioning their government for redress while disabled or living in poverty or on a fixed income. This predatory loop falls heaviest on those without the means to retain counsel during a time when legal aid is exceptionally scarce.

1. Close the "Vacant Lot" Loophole (660-047-0010(6)(h)). The definition treats lots as "vacant" if residential units were demolished. Oregon City terminated my water service in June 2024 while my income was severely restricted and I was unable to keep current on utility bills. It removed the meter, declared my home a "Dangerous Building" because it lacked water, allowed its exclusive solid waste franchisee to discontinue trash collection, then cited me for debris and vegetation violations its own actions created.

All of this occurred while I am litigating a contested foreclosure. By intentionally allowing the property to deteriorate, the City is effectively serving as the bank's enforcer—devaluing the home and stripping it of habitability to ease a transfer, while heaping further grief onto an already vulnerable resident. This is nothing less than municipal predation. It is the weaponization of bureaucratic red tape. We must reject a society that treats "demolition by neglect" as a legitimate revenue stream, and that cynically deploys administrative ordinances against citizens precisely when they are diligently pursuing relief through the courts.

Request: Amend 660-047-0010(6)(h) to provide that a lot is not "vacant" if the prior residential unit was lost due to municipal utility termination, code enforcement predation, or lien foreclosure within the preceding ten years, or if the property is subject to active title disputes, municipal appeals, or broader litigation where the occupant is actively petitioning for legal redress or making good-faith efforts to retain the home. Cities should not get credit for "allowing" Oregon Homes while they actively destroy existing housing—especially housing held by part-time workers and residents caught in the cracks of complex legal systems.

2. Infrastructure Capacity Is Not Infrastructure Access (660-047-0020(7)). Local

governments may apply public facilities plans, but Oregon City's plan did not prevent it from denying me water service for nearly two years, rejecting partial payments from my limited caregiving wages. Nor did it bar its franchised garbage monopoly to reject payment arrangements and refuse collection. The draft rules assume "sufficient infrastructure" equals capacity for new development. But it must also mean continuity of service that does not prejudice existing residents who are underemployed, burdened with legal troubles, or surviving on fixed incomes.

Request: Amend 660-047-0020(7) to require that local governments demonstrate continuous, non-discriminatory utility and waste service to existing residents, including those experiencing severe hardship, before claiming “sufficient infrastructure” for Oregon Homes. **A city cannot terminate water to a struggling household and then approve new housing on the "vacant" lot it helped create.**

3. Trash Storage Standards Assume Service That Is Not Guaranteed (660-047-0030(3)). Oregon City maintains an exclusive waste franchise that denies collection to residents in financial distress and legally bars alternatives. Yet the design standards require screened trash storage—a standard that is impossible to meet when service is cut off.

The burden falls hardest on those who can least afford it.

In the Tower Vista neighborhood, elderly homeowners on fixed incomes go next door asking for bin space. They have downsized to the smallest available service, or shifted to every-other-week pickup, because B&B Leasing's rates keep climbing. Oregon City's own Resolution No. 25-17 shows the math:

Service Level	Monthly Cost	Annual Cost	Cost Per Pickup
20 Gallon Weekly	\$28.74	\$344.88	\$6.63
35 Gallon Weekly	\$37.66	\$451.92	\$8.69
35 Gallon Monthly	\$18.25	\$219.00	\$18.25

The gap between weekly and monthly service is \$10.49 per month—over \$125 per year. For a fixed-income senior, that is real money. They are not absorbing rate hikes; they are rationing trash service.

This is not hypothetical. It happened to me.

B&B Leasing discontinued my service while I was unemployed and negotiating payment

plans. The City then cited me for rubbish accumulation under OCC 8.20.160-A. The franchise monopoly and code enforcement are working in tandem to displace residents already in distress.

Relief is possible. Washington County gave me a 75% trash discount through Community Action. Oregon City offers nothing: no relief, no alternative, no safety net. The exclusive franchise lets the city select winners and penalize losers. This regulatory gap cannot stand.

Request: Amend 660-047-0030(3) to add an exemption for households lawfully denied access to franchised waste collection due to restricted income or financial hardship through no fault of their own. Alternatively, require local governments to ensure universal waste service access, including reasonable payment plans for low-income and fixed-income residents, as a precondition to applying this standard *if not as a precondition to legitimate governance*.

4. Oregon Law Already Provides Broader Protections. The Rules Should Too. Oregon law prohibits housing discrimination based on source of income (ORS 659A.421) and immigration or citizenship status (SB 599, 2025), protections federal law does not provide. The Oregon Supreme Court has held that Article I, Section 20 provides broader equal protection than the federal Constitution. Oregon Homes should follow this state tradition of expansive equity, not federal minimalism. Just as state law bars source-of-income and immigration status discrimination, the rules must provide protections for those in financial distress or complex ownership situations. They must prohibit cities from using utility shutoffs, code enforcement, or service denial to displace vulnerable residents.

5. Federal Weatherization Programs Explicitly Exclude Foreclosed Homes. The exclusion I face is not unique to Oregon City. The federal Weatherization Assistance Program (WAP), administered locally by Community Action Agencies, categorically disqualifies any property "in foreclosure"—regardless of income or need. This rigid exclusion creates a self-reinforcing displacement cycle: I met the income threshold but was denied solely due to ongoing title litigation, which itself becomes a disqualifying "condition."

6. Even the Federal Government Is Moving Away From Rigid Exclusion My experience is not an isolated anomaly. Congress has recognized this exact gap through the HEIRS Act of 2025 (H.R. 1640) and the HEIR Act of 2025 (H.R. 1607). These bills would establish HUD grant programs for legal assistance and title clearing, and would allow alternative documentation for those without traditional proof of ownership. HUD has also allocated \$48 million to expand housing counseling for "heirs' property management." Even the federal government is recognizing the need to move away from rigid, exclusionary rules. But Oregon should not wait for Congress to act.

7. Impact Statements Must Analyze Socioeconomic Intersectionality, Legal Vulnerability, and Due Process. The draft Impact Statements are titled Fiscal, Housing, and Racial Equity. *To fully address the realities of displacement in the Pacific Northwest*, these frameworks must expand to analyze how economic class, fixed-income constraints, and active legal vulnerability intersect with housing insecurity.

Oregon City's garbage franchise (Ordinance 06-1001) creates a legal monopoly with no affordable alternative. When combined with aggressive collections, service discontinuation to low- or fixed-income customers, and \$300/day code penalties issued during active title litigation or administrative appeals, it becomes a class-based displacement tool. It effectively penalizes residents navigating complex legal frameworks or actively petitioning for redress, pushing them out so their lots can be redeveloped.

Request: Mandate a dedicated "Socioeconomic Equity, Legal Vulnerability, and Due Process Protection" component within the Impact Statement framework.
Require it to examine:

- Whether utility franchises and code fines disproportionately fall on low-income residents, fixed-income seniors, and unrepresented litigants
- Whether cascading shutoffs, waste denial, and liens accelerate displacement during income crises and title disputes
- Whether the "vacant" lot definition simply launder economic distress and legal vulnerability into redevelopment
- Whether local rules replicate federal exclusions, like WAP's foreclosure bar, to freeze out those actively seeking legal redress

Conclusion

I am defending my home against a complex foreclosure while restricted to 16 hours a week of caregiving work, navigating overlapping municipal and legal systems where counsel is scarce. My elderly neighbors in Tower Vista are rationing their trash service to survive compounding rate hikes.

Oregon Homes will fail its legislative intent if it only addresses what cities must *allow* while ignoring what they *actively destroy*. The rules must recognize that the inequity is deeply economic, procedural, and legal: cities are using regulatory tools to clear out part-time workers, fixed-income seniors, the poor, and any resident currently navigating the legal system or petitioning for redress...and calling it progress.

The federal government is already moving to address these very gaps. Oregon has the opportunity to lead by embedding intersectional **anti-displacement principles** and **due process safeguards** into its housing rules *now*, rather than waiting for Congress to catch up.

I respectfully urge DLCD to incorporate these safeguards into the final rules.

Annika Eriksson, MHOR Homes RAC Member (Lived Experience)
12054 Chapin Ct.
Oregon City, OR 97045



Clackamas County

July 14, 2026

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

Delivered Via E-Mail: housing.dlcd@dlcd.oregon.gov

RE: Clackamas County Comments on Draft Rules for Middle Housing Oregon Homes (MHOR) Phrase One

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

Thank you for the opportunity to provide comments on the draft rules for Middle Housing Oregon Homes (MHOR) Phase One.

Clackamas County staff have participated in the Middle Housing Oregon Homes Rulemaking Advisory Committee (MHOR RAC) and we appreciated the opportunity to be involved in the rulemaking process. Through this process it has become clear that the draft Rules in **OAR Chapter 660, Division 47 (Oregon Homes)** circumvent local zoning and siting standards, and increase administrative burden for local jurisdictions. Unfortunately, despite substantial feedback from RAC members recommending changes and raising concerns, very little has changed from the original drafts of the proposed rules. It is particularly disheartening that technical feedback from local government practitioners has been disregarded; these are the people most familiar with our local communities and the practical reality of implementation of state rules at the local level.

Circumvention of Local Zoning, Density, and Siting Standards

Including multi-unit dwellings with seven to 11 units in the definition of an Oregon Homes Development has the effect of undoing local planning efforts. As written, the rules will allow multi-unit buildings in neighborhoods, currently planned for single-unit and middle housing without local community engagement in these changes. For example, under the Oregon Homes pathway a 7,000-square-foot lot zoned for single-unit or middle housing, could become eligible for an 11-unit apartment building with reduced setbacks and increased building coverage. This upzoning would be allowed without any opportunity for meaningful community feedback at the local level.

The rules also fail to consider local context, for example the proposed 5-foot setbacks do not provide an adequate front yard area to allow cars to access garages safely and would greatly complicate the future acquisition of right-of-way for future roadway improvements.

Long-Term Implementation Challenges

We disagree with the Fiscal and Economic Impact statement included in the Notice of Proposed Rulemaking that states the new rules could reduce the fiscal costs of residential review, and that the limited review process should reduce staff time for an affected project. The proposed rule changes add complexity to the overall review of permits by introducing a new process with unique regulations that staff will need to implement. The long-term implementation of the MHOR program also has not been adequately considered. For example, it will be difficult for code compliance or the tracking of the history of an Oregon Homes lot due to the various alterations allowed.

Recommendation

We recommend that the LCDC carefully consider the proposed rules and avoid adopting regulations that override local density and design standards. In lieu of adopting the proposed rules, we recommend that communities rely on the existing middle-housing regulations to guide development and design as this will maintain neighborhood consistency and minimize regulatory complexity as communities work to build homes for all Oregonians.

Sincerely,



Craig Roberts, Chair

On Behalf of the Clackamas County Board of Commissioners

From: [CARPENTER Sean * DLCD](#)
To: [CAUDEL Ingrid * DLCD](#)
Subject: Comment Submission: MHOR Homes Phase One
Date: Monday, July 20, 2026 5:10:53 PM

Jerry Lidz

To view the PDF of this rulemaking comment, please visit the [SharePoint Library here](#).

Name: Jerry Lidz

Email: zdilj@comcast.net

Rule: MHOR Homes Phase One

Organization or affiliation (optional): MHOR RAC member — Individual (and former LCDC commissioner)

Comment: Commissioners — Staff and RAC members have worked hard and cooperatively to make sense of a complex statute and somewhat convoluted process to forge consensus on the draft rules, but I think many RAC members think we have fallen a bit short of that goal. I think the core problem is how to expedite a large number of new housing units in a way that's compatible with a great diversity among the cities that are covered by the statute and prospective rules. It also has been difficult to conceptualize the placement of the new homes on a lot when we don't yet have the standard home designs that the Building Codes Division will be adopting. The concern that came up over and over again was setbacks. From city to city — and even within a city — the public way that would mark the beginning of a setback varies widely. But in many places, a setback is 15-20 feet or even more, so a setback of 5 feet (as proposed in the draft) or even 10 feet may create major problems. The most serious concern is public safety. Several city representatives pointed out that their fire departments and sometimes other services need access to a front yard space in order to do their work. Also, a two-story home five feet from the street in a neighborhood of homes set back 20 feet from the street means that it will be impossible to see street traffic as one backs out of the driveway. Add to that the resentment among neighbors that would follow from such aesthetic incompatibility. Please note that the city/county representatives on the RAC, who will work to implement the rules, overwhelmingly oppose the draft as written. My other concern is cottage clusters. The average and maximum square footage are so high that we're not really looking at "cottages." I think potential cluster residents are looking for homes that are smaller and more affordable than contemplated by the draft rules: If the _average_ allowed square footage is 1400 square feet, a few small cottages would mean some other units might be full-sized homes of 2200 square feet, which in my view is not a "cottage." (I know that developers questioned the economic feasibility of smaller homes, but I think the expedited approval process should mitigate those concerns.) I also think the design standards for cottage clusters are far more detailed than necessary — e.g., the definitions and options for 'outdoor recreation areas.' This is a very challenging and complex process. The draft rules — often reflecting the statutes — are very complex and sometimes unclear. I strongly recommend review by the assistant AG most familiar with the program. Finally, my thanks and gratitude to Ethan, Ingrid, other staff for all their hard work and to Chair Lazo for his thoughtful and kind interactions with RAC members. Thank you for considering my comments. Sincerely, Jerry Lidz

Public Comment Regarding Consistency Between the Proposed Statewide Cottage Cluster Definition and OAR 660-046-0220(4)

Department of Land Conservation and Development

Brian Nelson

Dear Rulemaking Committee:

Thank you for the opportunity to comment on the proposed amendments to OAR Chapter 660, Division 46 implementing House Bill 2138.

After reviewing House Bill 2138, the proposed administrative rules, and the City of Portland's June 2026 State Land Use Compliance Project draft, I believe some provisions are ambiguous and could result in inconsistent implementation among Oregon jurisdictions.

I believe DLCD has appropriately implemented House Bill 2138 by defining Cottage Clusters using an average dwelling floor area of 1,400 square feet per dwelling unit, calculated while **excluding garages and porches** from that average. I support the implementation of the updated definition of "small footprint or floor area." It provides greater flexibility in Cottage Cluster design while preserving the character and intent of Cottage Cluster development. But it is not clear to me if the small footprint and floor area are both 1,400 sq ft.

I feel there is also a need for clarification of the proposed draft of the rule changes because provisions of the proposed rules appear to create uncertainty regarding whether local governments may adopt standards that differ from DLCD's proposed statewide Cottage Cluster definition. In the proposed draft OAR 660-046-0220(4)(e) states that:

"A Large City may limit the minimum or maximum size of dwelling units in a Cottage Cluster..."

If a city can regulate the size of the dwelling and has the ability to include or exclude the attached garage in the calculations of the footprint. The wording in 4(e) is not easily understood, and there is no mention of how garages would be addressed in the 1,400 sq ft average per unit area. Could a footnote be added in the Cottage Cluster definition to address this?

1. Relationship Between the Proposed Cottage Cluster Definition and Section 4(e)

House Bill 2138 amended the statutory definition of Cottage Clusters by replacing the previous definition with the broader phrase "small footprint or floor area". Rather than defining that phrase in statute, the Legislature directed DLCD to adopt administrative rules implementing those terms. DLCD has proposed to implement that legislative direction by defining Cottage Clusters using an average dwelling floor area of 1,400 square feet, excluding garages and porches from that average calculation. Later in the proposed rules,

Large Cities: OAR 660-046-0220(4)(e) provides that a Large City may regulate the minimum or maximum size of dwelling units within a Cottage Cluster. And has the option of including or excluding garages and porches.

My reading of the proposed rules is that a Large City may elect to regulate Cottage Cluster minimum lot size under subsection (4)(a) and, by doing so, may then utilize subsection (4)(e) to adopt an alternative dwelling-size standards and sub 900 sq ft building footprints. The 900 sq ft Cottage Cluster building footprint being brought up in this section adds the uncertainty of small footprint size.

2. The City of Portland's Proposed Compliance Code Draft

The City of Portland's June 2026 State Land Use Compliance Project draft demonstrates the need for clarification of the proposed DLCD rules is important. DLCD's proposed Cottage Cluster definition calculates average dwelling floor area while excluding garages and porches from that calculation.

Portland's proposed compliance code includes attached accessory structures, including attached garages, when calculating both the maximum building coverage and the average dwelling size for Cottage Cluster dwelling units. As a result, Portland's proposed implementation appears to differ from DLCD's proposed Cottage Cluster definition.

This example illustrates why I believe the final rules should clearly state:

- Whether a **Medium City** can use section (4)e to regulate Cottage Cluster dwelling size.
- whether garages, porches, and attached accessory structures must continue to be excluded from average dwelling floor-area calculations;
- whether local governments must apply DLCD's statewide Cottage Cluster definition when regulating Cottage Cluster dwelling size; and
- whether subsection (4)(e) authorizes local governments to adopt Cottage Cluster standards that differ from DLCD's statewide definition.

Clarifying these issues before adoption of the final rules will promote consistent implementation of House Bill 2138 throughout Oregon.

Thank you for your consideration of these comments.

Respectfully,

Brian Nelson
503-936-5127

briannelson.us@gmail.com

DLCD Rulemaking Comment Form Submission 54

Coos County

Form submitted at 7/24/2026

Name: Jill Rolfe

Email Address: jrolfe@co.coos.or.us

Organization or affiliation: Coos County Community Development

Rule: MHOR Homes Phase One

Comment: Thank you for the opportunity to comment on the proposed rules implementing House Bills 2138 and 2258. I appreciate the significant effort by DLCD staff, the Rulemaking Advisory Committee, and the Commission. I also recognize Oregon's urgent need for more housing. However, I remain concerned that Oregon continues to address permitting challenges by adding new statutes, regulations, and administrative processes rather than addressing the underlying causes of delay. Whether the issue is housing, economic development, infrastructure, or natural resource protection, we continue to respond by creating new regulatory frameworks instead of improving the permitting system itself. House Bills 2138 and 2258 are the latest examples of this approach. I understand the Commission is required to implement these bills. However, the Commission has discretion regarding how broadly these rules are written. I respectfully encourage the Commission to adopt only those rules necessary to implement the legislation and avoid expanding the program beyond what the Legislature expressly required. I was encouraged that many of the same concerns I have were raised during the Rulemaking Advisory Committee process. DLCD's own materials acknowledge discussions regarding emergency access, fire turnaround requirements, utility access, and the challenges of applying one statewide development standard across Oregon's diverse communities. These concerns deserve careful consideration before becoming permanent statewide policy. Oregon has long recognized that one-size-fits-all planning does not work. The Statewide Planning Goals establish a common vision and policy framework for the state while allowing local governments to implement those goals through comprehensive plans and land use regulations that reflect each community's geography, hazards, infrastructure, economy, and character. That partnership between statewide policy and local implementation has been one of Oregon's greatest strengths. In recent years, however, the state has increasingly shifted away from that model by replacing locally developed implementation measures with statewide standards. While intended to address housing needs, these changes reduce the flexibility communities need to implement the Statewide Planning Goals in ways that protect public health and safety while responding to local conditions. Development standards such as setbacks, access, and building placement are often viewed as design standards. In reality, they exist because planning, transportation, public works, and building safety are interconnected. Land use regulations determine where development occurs, while the Building Code governs how structures are constructed. Together they protect fire and life safety, emergency access, transportation, utilities, drainage, and community resilience. A single statewide standard cannot adequately address the diverse conditions found across Oregon. If Oregon is serious about addressing the housing crisis, we must focus on fixing the permitting system itself rather than continuing to add new regulatory layers. We should streamline review processes, improve interagency coordination, invest in local government capacity, modernize permitting technology, and preserve the flexibility necessary for communities to address legitimate site-specific health, safety, and infrastructure concerns. The solution is not to preempt local regulations, create parallel permitting systems, or shift responsibilities between state and local governments. The solution is to provide local jurisdictions with the funding, staffing, technology, technical assistance, and coordinated state support needed to efficiently implement Oregon's land use program. Strengthening that partnership—not replacing it—will do far more to increase housing production while continuing to protect the public health, safety, and welfare. Thank you for your consideration.



July 27, 2026
Allan Lazo, Chair
Oregon Land Conservation and Development Commission
635 Capital Street NE, Suite 150
Salem, OR 97301

Delivered Via E-Mail: Ingrid.caudel@dlcd.oregon.gov

City of Bend

RE: City of Bend Comments on Oregon Homes Rules, OAR 660-047 for July 29, 2026, Land Conservation and Development Commission hearing

Dear Chair Lazo and Members of the Commission:

The City of Bend provides these comments on the proposed rules, OAR 660-047, intended to implement HB 2258 (2025), the Oregon Homes Program. Thank you for the opportunity to provide these comments.

The city understands that the purpose of the Oregon Homes Program is to further streamline the permit process for new housing and ensure that more units can be built in a shorter period. That is the view the City relied upon in reviewing the draft rules and preparing the enclosed comments. We support making the program successful for builders who choose to use it. You will find the City's May 21, 2026, comments to the Rulemaking Advisory Committee (RAC) on pages 158-162 of your materials.

660-047-0010 Definitions

(1) Building Height: It still appears cities will have to use the new definition for building height for these dwelling units. We understood stakeholders were advocating for changes to the draft rules that would allow cities to use their own height requirements. We question the utility of having a different measurement for one use. We recommend deleting this definition and allowing cities to use their adopted definitions of height to reduce confusion in the permitting process.

(8)(g)(D) Oregon Homes Lot. We recommend deleting (D) from (8)(g). The goal of the program is to expedite construction of housing. This (D) adds a potential element of discretion that will lead to more time to approve a new dwelling or increased costs in redesigning a site plan to move a dwelling outside of a protected area. The city suggests focusing on lots of record that are located entirely outside of areas under a Goal 5 protection program (e.g., overlay zone).



660-047-0020, Local Government Review Process

(1) We commend changing the “must” to a “may” issue a land use decision under the proposed rule. While HB 2258 Section 2(2) states that the Commission may adopt rules that require a land use decision, we ask you to consider that doing so goes against the intent of the bill and program to speed up and increase housing production. Land use decisions involve the exercise of policy and legal judgements when applying land use standards. These decisions can be subject to appeal and a public hearing. Here, the Oregon Homes Program would rely on mostly clear and objective standards that would allow permitting to be completed using a ministerial path used for building permits.

Bend has already established a Pre-Approved Plans Program that is administered by the City’s Building Safety Division - [Pre-Approved Plans Program - City of Bend](#). These permits do not require a land use permit.

660-047-0030, Design Standards

(1) We recommend deleting (1)(d) – do not include a specific dimension in the rule for covered porches/patios. This was not addressed in HB 2258 and could function as a barrier for someone to use the program.

(2) The proposed standard for a maximum combined width of parking and vehicle maneuvering areas to not exceed 50% of a street frontage was not included in HB 2258. There is no purpose for this, and it creates a potential barrier to more housing being built as quickly as possible.

(3) Storage facilities. We recommend deleting this entire section. This topic was not included in HB 2258. These standards simply add cost and time and do not further the goal of supporting the development of more housing as soon as possible. For example, (3)(a) will require the exercise of discretion – how will a local government determine what is screened from lot lines and abutting properties? The term “Screened” is also not defined under proposed OAR 660-047-0010.

OAR 660-047-0040, Siting Standards

Please see the City of Bend’s proposed recommended changes to the redlined text in the draft amendment to OAR 660-047-0040(1).

Provide a setback of 5 feet on all sides of the building or the distance required for a proposed or existing utility easement or franchise utility easement. For buildings greater than 35 feet in building height, the setbacks must be 10 feet on all sides. For garages the setback must be 22ft if facing the street. Building height is defined in OAR 660-047-0010.

- **Modify the 5-foot setback requirement.** Add provisions allowing for increased setbacks along streets and alleys when necessary to accommodate existing or planned right-of-way

improvements.



- **Remove the additional setback requirement for buildings exceeding 35 feet in height.** The proposed 10-foot setback standard is more restrictive than development standards currently permitted in Bend's Medium- and High-density Residential districts and could unnecessarily limit housing development opportunities.
- **Allow local jurisdictions to establish garage setback standards.** Remove the proposed 22-foot garage setback requirement and defer to locally adopted standards, particularly where those standards are less restrictive and better aligned with local development patterns.
- **Address clear vision triangle requirements.** Add language recognizing the need to maintain clear vision areas for traffic safety at driveways and intersections, consistent with local development regulations. For reference, see Bend Development Code (BDC) 3.1.500.

(3) The city also questions the need for the proposed requirement of 15% of the gross site area provided as outdoor area. This topic was not addressed in HB 2258, and the statute does not require rulemaking for this.

Thank you for the opportunity to provide these comments. Please include them in the hearing record.

Sincerely,

Renee Brooke
Planning Manager
Community Development Department
rbrooke@bendoregon.gov



Accommodation Information for People with Disabilities & Language Assistance Services

You can obtain this information in alternate formats such as Braille, electronic format, etc. Free language assistance services are also available. Please email accessibility@bendoregon.gov or call 541-693-2198. Relay Users Dial 7-1-1. All requests are subject to vendor processing times and should be submitted 48-72 hours in advance of events.

Servicios de asistencia lingüística e información sobre alojamiento para personas con discapacidad

Puede obtener esta información en formatos alternativos como Braille, formato electrónico, etc. También disponemos de servicios gratuitos de asistencia lingüística. Póngase en contacto en correo electrónico accessibility@bendoregon.gov o número de teléfono 541-693-2198. Los usuarios del servicio de retransmisión deben marcar el 7-1-1. Por favor, envíe sus solicitudes con 48-72 horas de antelación al evento; todas las solicitudes están sujetas a los tiempos de procesamiento del proveedor.

DLCD Rulemaking Comment Form Submission 55

City of Millersburg

Form submitted at 7/27/2026

Name: Matthew Straite

Email Address: matt.straite@millersburgoregon.gov

Organization or affiliation: City of Millersburg

Rule: MHOR Homes Phase One

Comment: The City of Millersburg has reviewed the 6.30.26 4:30pm DRAFT version of the Oregon Homes Program Rules (MOHR) and provides the following comments. 1. Starting in Section 660-047-0000, page 45, the term “development types” is used. This is a confusing term to use. The MOHR states that pre-approved housing plans must be approved. Calling these housing types could lead a reader to take it out of context and assume these apply to a housing type, when they do not. All references to housing types should be removed from the amendments, and should be called simply, plans. See sections 660-047-0010(7). 2. 660-047-0010(8)(g)(D), page 47, was a smart addition, and well worded. Thank you. This is the section of the definition for an Oregon Homes Lot that states the rules apply to developable areas of a lot. 3. 660-047-0020, page 48, seems to imply that Land Use hearings are required for all single-family homes. Most cities no longer require Land Use review for individual homes. Any requirement that mandates Land Use review for single family homes would slow down MOHR development. Even if this section does not mandate Land Use review, it should be re-worded to make it crystal clear that no new review process is required for MOHR homes with pre-approved plans. 4. 660-047-0020(10), page 48, the section that does not require cities to accept mandatory variances to these MOHR homes is a great addition to the text. That makes it clearer to implement. 5. 660-047-0030(4), page 49. Cities are already being forced to approve homes that may not meet their standards. The addition of (4) that allows automatic approvals to 10% variances to the MOHR rules is simply too much flexibility and is unfair to Cities. If the plans are preapproved, they should have to comply with the letter of the clear and objective standards, without accepting any variances. If they cannot meet the rules for the MOHR, they should simply process the application for building permits using the same process as anyone else. Variances can be used for the normal building process, but should not be allowed for MOHR homes. 6. 660-047-0040(1), page 50, seems to imply by omission that there is no height limit on MOHR homes. That seems highly unreasonable. 7. 660-047-0040(1), page 50, A setback of 5 feet should be the minimum in all cases. This subsection adds that a setback can be less if there is a proposed utility easement. That should not be the case. The text should clearly state that setbacks are allowed to be more than 5 feet with an easement, but not less. 8. 660-047-0040(4), page 50, explains that cities must accept a variance of up to 10% for “characteristics” requirements of 660-047-0040. One cannot vary a characteristic. Only a numeric standard can be varied. Does this require cities to allow 10% variance on a hot tub (so 90% of a hot tub can be built)? Or 10% of playground equipment? Variances cannot be applied to characteristics. All reference to all automatic 10% variances should be removed. We thank the LCDC in advance for consideration of these comments. As a last note, the City of Millersburg sternly opposes any State regulations that erode Home Rule. While the DLCD does not create legislation, any DLCD rule-making should not further expand the erosion of home rule by creating rules that go beyond what the Legislature requires.



We build strength, stability, self-reliance and shelter.

Support for OAR Chapter 600, Division 46 and 47 proposed rules

Habitat for Humanity

Dear Chair Lazo,

On behalf of Habitat for Humanity of Oregon and the 23 local Habitat for Humanity affiliates building and repairing homes across the state, I am writing to express strong support for the OAR Chapter 600, Division 46 and 47 proposed rules.

The Oregon Homes legislation (HB 2258 passed in 2025) was designed to expedite the production of new homes by streamlining approvals for a variety of housing types: single-family homes, accessory dwelling units (ADU's), duplexes, triplexes, quads, townhomes, and cottage clusters. Importantly, HB 2258 specifies that the resulting middle housing units may be either attached or detached. In addition, this bill explicitly applies to prefabricated and modular housing.

The Oregon Homes strategy for developing pre-approved residential plans for a variety of housing types, is primed to pair with recent housing innovations, to scale up the supply of entry-level homes for sale and rent across the state.

Currently, Habitat for Humanity of Oregon is collaborating with Gust Tsiatsos of GCT Land Management in La Grande, who is a modular home builder. Together with our state's one remaining, volunteer-run affiliate, we are working to develop 14 homes within 30 months on an infill site less than two miles from the high school. Using Habitat's traditional approach of raising the funds, organizing community volunteers and building homes, it has typically taken this affiliate two to three years to build and sell a single house.

With LIFT Homeownership funding secured to support this work, site predevelopment is underway. Three homes on this site will be 1,316 square feet, with an extremely livable floor plan. The 1-bedroom, permanently affordable cottages will provide energy-efficient opportunities to age in place. All 14 of these homes will be single-story and fully accessible. The city of La Grande is committed to meeting their housing supply deficit, to the benefit of local community members, and has been an amazing partner. ***Habitat for Humanity of Oregon and GCT Land Management view this collaboration as a pilot we are eager to deliver and replicate—especially in other rural Oregon communities.***

This type of exponential increase in affordable homeownership production was literally unthinkable a few years ago. While it has taken some time for new, middle housing land use regulations to hit the ground locally, these opportunities are opening up daily. Our state's growing acumen in the areas of manufactured, modular, and mass timber construction have tremendous promise.

At a recent tour of Blazer Industries' modular factory, I was excited to learn that Age+ has taken a very proactive approach to siting replicable, modular developments to expand housing options affordable to seniors throughout the state.

While Leigh Armstrong accurately reported that 23 independent Habitat for Humanity affiliates build homes across the state, most Habitat affiliates build in multiple communities—sometimes even in numerous counties. Both Division 46 and 47 of the proposed rules will help these locally-based organizations to better serve their communities. We're also excited to see the Master Plan program take shape, and see numerous near-term applications to expedite our homebuilding efforts in Oregon communities of all sizes.

Regarding national Habitat for Humanity building and design standards, to my knowledge, these are most rigid for affiliates who access SHOP, the Self-Help Homeownership Opportunity Program administered by HUD.

Two updates we're especially pleased to see come out of the rulemaking process include: (1) specifying that Cottage Clusters can include homes up to 1,400 square feet, and (2) updating the Middle City definition.

The proposed rules included in OAR Chapter 600, Division 46 and 47 will further expedite the ability of Habitat for Humanity affiliates, housing authorities, municipalities, and other nonprofit and for-profit developers to scale up new home production—especially in rural Oregon communities. We urge your strong support.

Thank you for your leadership and service,



Shannon M. Tennant, Executive Director



COMMUNITY DEVELOPMENT

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July 27, 2026

Land Conservation and Development Commission
635 Capitol St NE, Ste 150
Salem, OR 97301-2540

Sent via: denise.johnson@dlcd.oregon.gov; cc: housing.dlcd@dlcd.oregon.gov

Re: MHOR Homes Rulemaking

Wasco County

Dear Chair Lazo, and Esteemed Commissioners;

Thank you for the opportunity to provide written comment on the MHOR Homes Rulemaking (Phase One).

Wasco County appreciates the legislature's efforts to look for solutions to housing Oregonians. However, as drafted, the MHOR Homes Phase One rules represent a failure to reconcile rules with local standards. Local standards are part of a comprehensive and strategic vision for a community by that community that also consider life, health, safety, and welfare, and are therefore critical for citizens. There is also a lack of acknowledgement for the high costs the new rules represent to local government.

Property Development Standards

Property development standards, like setbacks or fire access, are not arbitrary regulations intended to impede development. Instead, they integrate various regulations, like fire safety requirements and visual clearance, into land use and development and building codes. Communities work with outside agencies, community members, and other stakeholders to design property development standards considering local conditions that can also ensure for public health and safety. What is proposed, is instead a unified standard. A unified standard assumes unified conditions across our great state.

Yet one size does not fit all. Where snow load may be a bigger concern for some jurisdictions, others focus on heavy winds or rain. Similarly, some home designs work better for some communities, lifestyles, or diverse experiences and collapsing into one standard negates any pretense at equity. Quite simply, local jurisdictions have spent considerable time and consequently honed local expertise at developing property development standards that work for their community and safeguard the many resources, including built and human environment, our citizen's value. Superseding those carefully crafted standards invalidates the idea that as Oregonians we value diversity, equity, and inclusion. It also ignores that local expertise, which has the capacity to work quickly through local code, by establishing a new set of regulations for jurisdictions to implement. New regulations come with many costs.

Increased Costs and Inefficiency

Although the fiscal analysis suggests that impacts to local governments is marginal, it is hard to understand how that conclusion was reached beyond a heavy reliance on use of existing permitting and tracking software, staff, and equipment. As members on the RAC pointed out, local governments will need to develop a separate analysis to determine whether individual properties qualify for this fast tract. They will have to learn this new standard, and potentially codify it. This increases staff workload and presents potential liability. In other words, these rules are an unfunded mandate that seek to pre-empt local regulation while, necessarily for compliance with Statewide Land Use Planning Goals like Goal 7, will require an additional layer of analysis and regulation.

The housing impact statement suggests that there will be a substantive impact on the cost of housing and pace of construction. This conclusion is reached through the suggestion that developers will achieve efficiency in permitting that will necessarily reduce cost. In a simulation, that certainly could be the case, however the realities of land use and building are such that every project has some variation that require discretion. This section of analysis is filled with a lot of hypothetical scenarios without data to support. Rather than an impact statement, it can be more accurately categorized as goals.

I understand that RAC members were very clear with some of the significant administrative burdens represented by implementing these new rules, including examples and real life data. That clear feedback is not reflected in the statement of need and fiscal impact or in the rules as presented.

I would encourage the Commission to consider the testimony of RAC members and the comments from jurisdictions seriously, and to refrain from making a decision until some of these serious concerns have been addressed.

With my thanks,

A handwritten signature in dark ink, appearing to read 'Kelly Howsley Glover', written in a cursive style.

Kelly Howsley Glover, PhD
Wasco County Community Development Director



City of Beaverton

7/28/2026

Chair Allan Lazo,

Land Conservation and Development Commission

Oregon Department of Land Conservation and Development

635 Capitol St. Ste 150

Salem, OR 97301

Re: Comments on the Draft Administrative Rules for the Middle Housing/Oregon Homes Rulemaking

Chair Lazo and members of the Commission,

Thank you for the opportunity to comment on the proposed Middle Housing/Oregon Homes Rules (MHOR). As a jurisdiction with parcels classified as Oregon HOMES lots, we wish to express concerns regarding the expanded scope of these rules. We believe this broader application departs from the legislative intent and would necessitate a completely new land-use review process.

The legislative intent of House Bill 2258 was to establish preapproved building plans for certain middle housing and single-family homes and to apply specific siting criteria when a preapproved plan was built on a particular type of lot. The goal was to expedite development by providing a ready-to-use building plan on a ready-to-build lot.

Option three in the draft rules expands on the legislative intent and allows a developer to apply directly to a local government without DLCD preapproval for a range of building types, including attached or detached housing, accessory dwelling units, prefabricated modular housing, and multi-family dwellings with six to 12 units. This means city staff are expected to develop and apply a separate process for these applications to apply the mandated standards, in addition to the numerous code updates required by recent legislation and agency rulemaking.

Since the passage of House Bill 2001 (2019), Oregon cities have been required to implement multiple waves of housing-related code changes over the past seven years. For example:

- **HB 2003 (2020):** Requires cities over 10,000 people to analyze what housing is needed for current and future residents.



- **HB 2001 (2023):** Builds on HB 2001 to broaden the definition of “needed housing” for the purposes of a Housing Production Strategy to include middle housing and accessible housing.
- **Climate Friendly and Equitable Communities (2020):** Requires larger communities to update local land use and transportation plans to increase pedestrian and multimodal transportation options, such as removing parking minimums, requiring charging for electric vehicles in certain developments, and planning for greater development in transit corridors/downtowns.
- **SB 458 (2021):** A follow-up to HB 2001 that requires applicable cities or counties to allow middle housing lot divisions for middle housing types.
- **HB 3409 (2023):** Enacted new energy and building code provisions, including the Residential Reach Code.
- **SB 974 (2024):** Mandated additional design exceptions and limited review processes for applications to develop 20+ units.
- **SB 1537 (2024):** Required cities to streamline design and development standards for middle housing, including implementing mandatory adjustments.
 - **SB 48 (2025):** Technical fixes to SB 1537 that limit the new “goal post” provisions enabling applicants to opt into new standards.
- **HB 2658 (2025):** Prevents cities from requiring a frontage improvement as a condition of approval for a construction permit when performing certain alterations.
- **HB 2138 (2025):** Requires tree removal codes to be clear and objective, exempts traffic impact analyses for certain middle housing projects, and allows simultaneous applications for subdivision and middle housing land division.
- **HB 4037 (2026):** Introduced notice and appeal reforms for housing applications.

These efforts represent major statutory and administrative mandates, each requiring municipalities to draft, vet, adopt, and implement corresponding local code provisions—while continuing to meet the needs of applicants and expedite housing production.

The legislative intent behind statewide middle-housing mandates (e.g., HB 2001 in 2019, the follow-up in 2023, and related OHNA rulemaking) was to standardize and expedite local code updates to increase housing capacity. However, the third “pathway” in this draft rule



introduces a parallel process that adds procedural layers rather than delivering clarity and efficiency.

HB 2258 originally aimed to enable DLCD to develop plans for specific housing types suitable for the identified Oregon HOMES lot. However, the third pathway shifts this responsibility to local governments, introducing more uncertainty about the quickest route to construction. For example, Beaverton's local code is more permissive than Oregon HOMES requirements for buildings over 35 feet tall. Beaverton does not increase setbacks in this situation to incentivize greater density. As a result, some developments would benefit from the Oregon HOMES approach, some from Beaverton's regular rules, and some from the mandatory adjustments or the design-standard limitations of HB 974. This illustrates how legislation intended to make housing permitting easier ends up making it more complicated for applicants and staff.

To expedite housing production, especially for middle housing options, we recommend moving forward without option three and requiring DLCD to produce and review model building plans suitable for this program.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Coffey". The signature is fluid and cursive, with a long horizontal stroke at the end.

Elizabeth Coffey

Interim City Manager



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Clackamas County
July 28, 2026

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

Via e-mail: housing.dlcd@dlcd.oregon.gov

RE: Clackamas County STAFF Technical Comments on Draft Rules for Middle Housing Oregon Homes (MHOR) Phase One

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

Thank you for the opportunity to provide comments on the draft rules for Middle Housing Oregon Homes (MHOR) Phase One.

Clackamas County staff have reviewed the proposed rules in detail and wanted to highlight some specific technical issues we have identified related to both OAR Chapter 660, Division 46 (Middle Housing in Medium and Large Cities) and OAR Chapter 660, Division 47 (Oregon Homes).

Division 46: Rules are Not Ready for Adoption

The draft Rules in **OAR Chapter 660, Division 46 (Middle Housing in Medium and Large Cities)** are not ready for adoption. By changing the definition of cottage cluster to include arbitrary standards, the drafters have created conflicts with other standards found later in the Rule. For example,

- per -0220(4)(B)(e) a Large City "must apply a maximum building footprint of less than 900 square feet per dwelling unit," so the new definition which includes a "small footprint" or average dwelling size, is essentially meaningless.
- -0020 (2)(c)(i) exempts garages from the 1,400 sq. f.t average size, which directly contradicts the Model Code provisions that jurisdictions are allowed to use and which include garages in that calculation.

Per HB 2138 [2025], the cottage cluster changes do not need to be implemented by local jurisdictions until Jan 1, 2028. More time needs to be taken to review the entirety of Division 46

and the Model Code and amend both to ensure the new cottage cluster definition and regulations can be implemented consistently.

The amendments to Division 46 are also not complete with respect to HB 2138 requirements that must be implemented by January 1, 2027. HB 2138 requires that middle housing now be allowed on “each lot or parcel zoned for residential use.” The proposed Rules do not reflect this change. For example, they continue to allow for minimum lot sizes for middle housing that are larger than those for detached single-unit dwellings, and there is no consideration for how to address middle housing standards in zones that do not allow for detached single unit housing.

Division 47: Rules Add Complexity to Permit Review

Through the Rulemaking process it has become clear that the draft Rules in **OAR Chapter 660, Division 47 (Oregon Homes)** increase, rather than decrease, the complexity of permit review, while also circumventing local zoning and siting standards. Unfortunately, despite substantial feedback from RAC members recommending changes and raising concerns, very little has changed from the original drafts of the proposed rules. It is particularly disheartening that technical feedback from local government practitioners has been disregarded; these are the people most familiar with our local communities and the practical reality of implementation of state rules at the local level.

Some of the technical feedback that has been shared at the RAC meetings and remain issues in the draft Division 47 Rules include the following:

660-047-0010 (Definitions)

- The Rules proposed a definition of building height that is different than the one in the Oregon Residential Building Code, the standard currently used by all jurisdictions in the state. The result is that same building on the same lot could have two different “heights” depending on which process the developer chooses.
- -0010(7)(b) refers to residential “types with a buildable area of...”. This term is unclear in the context of a building, which may have a floor area, or total square footage, or other similar measurements.
- -0010(7)(a) would allow for an accessory dwelling unit (ADU) to be up to 2,200 square feet in size, which is much larger than most jurisdictions, and certain state laws, allow.
- -0010(8) identifies an Oregon Homes Lot as one “within an urban growth boundary” and includes no requirement for connection to urban services (i.e. public sewer, water). Land within a UGB that has not yet annexed to a city often does not have access to urban services. Without a limitation, this would mean that the county would have to allow an 11-unit multiunit housing development on a septic system and private well.

660-047-0020 (Local Review Process)

- Many of the housing types allowed under these Rules would not currently require a land use decision and could be approved simply through the approval of a building permit. Adding the requirement for a “land use decision” adds time, process, and expense to the developer. Additionally, this requirement adds a new procedure for local jurisdictions to implement, with no clear timelines for review, meaning a local jurisdiction could sit on the decision for an undetermined amount of time.

660-047-0030 (Design Standards)

- This section and -0040 include standards that are much more restrictive than many jurisdictions’ standards for single unit housing and middle housing, including screening for storage buildings, entry orientation requirements, garage width limits, and prescribed “outdoor areas”. These additional standards, in conjunction with the added cost and time for the additional land use process, will render these Rules impractical for most single unit dwellings and middle housing developments. Quite simply put, in most cases, it is easier and less costly to develop those types of housing under the current permitting process.
- -0030((1)(5) provides for a variance of “not more than 10%” from the identified design standards. It is not clear how the 10% variance would work for a requirement with no numerical standard. For example, how would one calculate a 10% variance from the standard that an entry must “face the street”?

660-047-0040 (Siting Standards)

- The proposed 5-foot setbacks do not provide for adequate front yard areas to allow cars to safely access garages and to ensure sidewalks remain accessible to all users and unobstructed by parked vehicles.
- This section is inappropriately being used to circumvent local zoning. While we appreciate that the housing permitted under these Rules must meet minimum density standards within the applicable zoning district, there is no mention of maximum allowed density. As written, these Rules would allow multiunit buildings in neighborhoods currently planned for single unit and middle housing, without regard for local planning efforts or community input.

660-047-0050 (Tree Standards)

- Nothing in these Rules prevents a property owner from removing trees prior to the site development. It simply states that an Oregon Home Development “may not result in...”

- -0050(3) requires the tree(s) that are removed to be replanted. This is not practical, as trees that are removed are often no longer viable or even intact once removed.

Summary

We recommend that LCDC direct DLCD to continue to work with the RAC to ensure the amendments to Division 46 are thoroughly vetted and accurately reflect the legislation. We also recommend that the amendments related to cottage clusters be removed from this draft and DLCD take more time to work on the cottage cluster amendments separately with the RAC to ensure complete and consistent Rules are created.

It is important to recognize that substantial technical problems remain with the draft Rules for Division 47, the most egregious of which is the attempt to circumvent local zoning code maximum density allowances. As drafted, the Rules create more complexity and expense for housing developers and do not support the desired outcomes of more housing and more affordable housing. We recommend that LCDC direct DLCD to limit these Rules to only the provisions of HB 2258 that are required and let existing jurisdictional zoning codes be the guiding provisions for residential development.

Respectfully submitted,

Cheryl Bell; Assistant Director
Clackamas County
Department of Transportation and Development



City of Happy Valley
July 27, 2026

Department of Land Conservation and Development
Housing Services Division
635 Capitol St NE
Suite 150
Salem, OR 97301

Re: Oregon Homes Program Rulemaking

Dear Rulemaking Committee Members,

On behalf of the City of Happy Valley, thank you for the opportunity to provide comments on the proposed Oregon Homes Program rulemaking. Happy Valley strongly supports the State's goal of increasing housing production, expanding housing choice, and reducing unnecessary barriers to housing development. Our community has consistently implemented state housing initiatives and has proactively planned for substantial residential growth within the regional urban growth boundary.

We appreciate DLCD's efforts to establish an efficient approval pathway for housing. However, several provisions of the proposed rules appear to extend significantly beyond the policy framework adopted by the Legislature and create challenges that may ultimately undermine housing production, public safety, infrastructure planning, environmental protection, and local administrative efficiency. The Oregon Homes legislation was widely understood as creating a pathway to use qualifying housing plans on qualifying lots. As currently drafted, the proposed rules establish a much broader regulatory program and would apply to nearly every small residential development statewide, including housing not reviewed or approved through a state pre-approval process. In doing so, the rules substantially limit the ability of cities to apply standards necessary to ensure safe development, adequate infrastructure, and long-term community livability.

- **Expansion Beyond State-Approved Building Plans.** The most significant policy concern is the expansion of the program beyond housing plans approved through a State review process. Under the proposed rules, virtually any residential project meeting the Oregon Homes criteria may utilize the program regardless of whether the plans were reviewed and approved by the State. This change fundamentally alters the nature of the program. Rather than serving as a streamlined pathway for pre-approved housing plans, the program becomes a broadly applicable statewide regulatory framework for residential projects of up to eleven dwelling units. For communities such as Happy Valley, where substantial future residential growth is anticipated, the practical effect is that a significant share of future housing development could be governed by a new set of statewide standards rather than the locally adopted standards developed through comprehensive public planning processes. If the Legislature intended to create a program centered on state-approved housing plans, the rules should remain focused on those plans. This would be resolved if the program only applied to state-approved plans.
- **Expansion of Eligible Housing Types & Densities Beyond Existing Zoning.** The proposed rules require approval of housing types and development intensities that are not currently permitted

within a jurisdiction's zoning framework. For example, many low-density residential zones

throughout Oregon (including Happy Valley) allow detached homes, duplexes, triplexes, quadplexes, or cottage clusters, but do not permit larger multiunit apartment-style developments. The proposed rules would require cities to permit residential forms of up to eleven dwelling units regardless of local zoning limitations. This represents a substantial expansion uses and densities beyond the housing opportunities already authorized under state law.

More importantly, it does so without requiring analysis of whether water, sewer, transportation, stormwater, fire protection, or other infrastructure systems can accommodate the increased intensity. Happy Valley, like many growing communities, continues to make significant investments in infrastructure planning. As a city on the edge of the metropolitan region, there are a number of areas constrained by insufficient existing infrastructure. Planned infrastructure may not be sufficient to accommodate the increase anticipated from these changes. Growth should occur in a manner that is coordinated with the capacity of existing and planned public facilities. Local governments should retain the ability to apply their adopted use and density standards when implementing the Oregon Homes Program.

- **Statewide Preemption of Local Dimensional Standards.** The proposed siting standards establish a uniform statewide approach that replaces many locally adopted dimensional regulations. Local setback, lot coverage, height, and site design standards exist to address real-world conditions that vary substantially among Oregon communities. These standards help ensure adequate utility placement, emergency access, stormwater management, fire separation, neighborhood compatibility, and other public objectives.

For example, Happy Valley requires eight foot utility easements that maintain access and long-term service reliability for a variety of utilities. The four and a half foot setback identified in the draft language is not sufficient to provide adequate physical space for multiple necessary utilities such as power and internet. The City adopted a 22 foot garage setback in response to automobiles frequently being parked in driveways too short to accommodate their length, causes frequent barriers to those on the sidewalk. Aside from being forced to walk around, the automobiles were blocking the view and it was challenging for people in wheelchairs or with strollers to navigate.

Another example includes the fire separation that setbacks provide. Many local jurisdictions allow the projection of roof eaves two feet into the setbacks, resulting in buildings five feet apart. This narrow distance creates a fire separation safety hazard as no mitigation preventing the spread of fire can be required, resulting in a significant public safety hazard.

Importantly, there is little evidence that locally adopted dimensional standards have broadly prevented housing development. Housing is routinely constructed under existing regulations throughout Oregon. Replacing local siting and dimensional standards with a single statewide framework risks creating unintended consequences while providing limited additional housing benefit.

- **Parking and Transportation Safety Concerns.** The proposed parking provisions create significant implementation concerns. While recent legislation has significantly limited parking mandates, the proposed rules would effectively eliminate the remaining ability of many jurisdictions to continue to require minimum parking for a substantial portion of future development. In communities like Happy Valley, with limited transit service and significant gaps in our evolving transportation infrastructure, this approach may create unintended impacts on neighborhood function, emergency response, and transportation safety.

The proposed rules eliminate the ability of local governments to apply parking design standards necessary to ensure safe vehicle circulation. Jurisdictions are unable to require compliance with basic safety and design requirements for a parking lot supporting up to an 11-unit multiunit development. This not only puts the public at risk with substandard driveway design, vehicle maneuvering, sight distance, emergency access, and conflicts with pedestrians and bicyclists, but it also conflicts with other state requirements such as CFEC for electric vehicle conduit and tree canopy coverage for multiunit developments. Cities should retain the ability to apply clear and objective parking and parking lot design standards that protect public safety and ensure consistency with other state regulatory requirements.

- **Environmentally Constrained and Hazard-Affected Properties.** The revised draft expands eligibility to properties which contain environmental constraints and hazard considerations. Although development under the proposed rulemaking is intended to remain outside of the mapped area, the program was outlined in legislation to only apply to qualifying lots that avoided environmentally sensitive conditions. This change significantly increases the number of eligible lots. The language itself is unclear and conflicting, but the application of the program on the constrained lots introduces a host of problems related to construction disturbance areas and it encourages widespread tree removal on slopes and along creeks and wetlands with nearly no penalty. An amendment to exclude environmentally constrained properties from qualifying lot eligibility would provide greater clarity, improve program administration, and better align with long-standing state planning objectives.
- **Tree Preservation and Administrative Complexity.** The proposed tree preservation provisions establish a separate regulatory framework that applies only to Oregon Homes developments. While well-intentioned, this approach creates substantial administrative complications. Local governments would be required to determine not only whether a property qualified under the Oregon Homes Program at the time of original development, but also establish a system for tracking and continuing to apply the alternative standards into the future. Establishing and maintaining a long-term tracking system for individual properties would require new administrative procedures, staff resources, and recordkeeping obligations that are needlessly burdensome for small jurisdictions. The rule also contains several standards that remain difficult to implement in a clear and objective manner, including tree health determinations. More practical approaches would either allow local governments to continue administering their adopted tree preservation programs or would limit the alternate program to only apply during the initial development approval process.
- **Administrative Feasibility and Legal Clarity.** A recurring concern throughout the proposed rules is the lack of clarity for local implementation. The rules repeatedly state that local review must be ministerial and free from discretion. At the same time, many provisions rely on terms and standards that require significant interpretation. Examples include how building height is measured, how slope is calculated, what constitutes a tree grove, how usable outdoor space requirements are evaluated, what constitutes a healthy tree, and how various parking limitations are applied on irregularly shaped sites. The accompanying draft language also creates uncertainty regarding the interaction between Oregon Homes approvals and local engineering standards, utility requirements, transportation review, environmental regulations, and other development requirements. Clarifying these provisions before adoption will improve implementation, provide greater certainty to applicants, and ultimately support efficient housing production. Some edits and redlines are proposed to assist the state in transforming the program into one which can be successfully implemented.

The City of Happy Valley supports efforts to address Oregon's housing needs and appreciates DLCD's

work on this important initiative. However, the current draft rules extend far beyond the concept of a

streamlined approval pathway for qualifying housing plans and instead establish a comprehensive statewide development framework that substantially preempts local land use regulations. We respectfully request that DLCD revise the draft rules to better align with legislative intent, maintain the focus on state-approved housing plans, preserve local authority necessary to address infrastructure and public safety concerns, provide greater protection for environmentally constrained areas, and improve the clarity and administrative feasibility of implementation.

Thank you for your consideration of these comments and your continued partnership in advancing housing solutions throughout Oregon.

Sincerely,

A handwritten signature in dark ink, appearing to read 'TE' followed by a stylized flourish.

Tom Ellis
Mayor
City of Happy Valley

RULE SUMMARY: This rule establishes the definitions for Division 660-047, the Oregon Homes program.

CHANGES TO RULE:

660-047-0010

Definitions

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

(1) "Building Height" means the vertical distance from the lowest ground surface a building wall to the tallest point of the roof of the building.

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

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

(4) "Developable area" means the space on the lot not including setbacks, public utility easements, and any required open space.

(5) "Environmentally sensitive area" means lands protected or designated pursuant to 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 public and private infrastructure improvements such as grading, water, sewer, stormwater, and utilities.

(7) "Oregon Homes Development" means a residential development type that would be an Oregon Homes Lot including:

(a) Attached or detached housing consisting of one of the following:

(A) Single-unit attached (with or without an accessory dwelling unit)

(B) Single-unit detached (with or without an accessory dwelling unit)

(C) Duplex

(D) Triplex

(E) Quadplex

(F) Cottage Cluster (four to 11 dwellings)

(G) Multiunit (six to eleven dwellings)

(H) any combination of attached or detached units up to 11 dwellings;

(b) Types with a buildable area of:

(A) A size of not more than 2,200 square feet per dwelling unit; and

(B) An average per-unit size of not more than 1,400 square feet if there are five or more dwellings;

(c) The use is permitted in the zoning designation and the minimum density requirements of a comprehensive plan or land use regulations for the lot or parcel are met; and

(d) Housing types whose building plans have been approved by Department of Consumer and Business Services pursuant to ORS 455.062, ORS 455.685.

(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;

Laura Terway

2026-07-06 21:37:00

Laura Terway

2026-07-02 22:31:00

Unnecessarily wordy and "average height" conflicts with the last part of the definition for the "tallest point of the roof". Unclear how a vertical attached structure, such as a triplex, is measured

Laura Terway

Laura Terway

2026-07-06 15:58:00

Development could also be limited with a variety of other situations such as limitations in environmentally sensitive areas, view corridors, etc. This is clear by identifying only what is applicable

Laura Terway

2026-07-02 22:43:00

This is problematic as it appears to say that only lots that were created through a plat are applicable - which is counter to later language. Some lots have been

Laura Terway

2026-07-06 16:23:00

The types of units allowed is unclear and needs to be specified. Note that because qualifying lots must be vacant and ADUs are listed, they would have to be constructed with the initial

Laura Terway

2026-07-02 22:48:00

This needs a definition. Are decks, covered patios, garages, uninhabitable

Laura Terway

Laura Terway

Laura Terway

2026-07-06 17:33:00

Expands the program beyond the legislative intent for pre-approved building plans with the state to preempt local regulations for nearly all residential development of 11 units or less across

- (d) At least 1,500 square feet;
- (e) Not larger than 20,000 square feet;
- (f) No slopes of 15 percent or greater; and



- (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;
 (B) Open space or scenic areas; or
 (C) Natural hazard areas, including floodplains, river greenways, landslide zones, or wildfire risk areas;
 (h) Vacant or modification to a previously approved Oregon Homes Development that does not increase the number of dwellings onsite. Vacant includes a lot or parcel:

- (A) Created by any lawful division of land, regardless of when the division occurred.
 (B) On which is sited a nonresidential structure that is nonconforming which will be demolished prior to occupancy of the residential dwelling(s).
 (C) For which all residential units were demolished more than five years prior; or
 (D) For which all residential units were demolished within the previous five years, provided the development would create net additional units and would use a building constructed after January 1, 2000, as defined by the Department of Consumer and Business Services pursuant to ORS 455.062, ORS 455.680, or ORS 455.685, and would meet the criteria in section (5) and approved through local building code review.
 (9) "Public facilities plan or engineering master plan" means a support document or document that describes the water, sewer and transportation facilities which are designated in the appropriate acknowledged comprehensive plans within an urban growth boundary for a population greater than 2,500.

- (10) "Site plan" means a site or development plan that is drawn accurately to scale and includes the following existing and proposed information:

- (a) All property lines with dimensions and total lot 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 topography;
 (f) Locations and square footages of areas sloped more than 15%;
 (g) Location and caliper of every tree onsite and identification if it will be removed or retained;
 (h) Health determination by a certified arborist for trees removed;
 (i) Method for tree protection and/or mitigation plan with replacement species, size, and location;
 (j) Locations of all temporary and permanent disturbance;
 (k) The angles of each doorway to the street;
 (l) Existing and proposed easements and on-site utilities;
 (m) Existing and proposed development with all dimensions, including floor area and building footprint;
 (n) Distances of all existing and proposed development to property lines;
 (o) Types and location of outdoor area(s) and usable open space (if required);
 (p) Percentage of the site proposed for outdoor area coverage;
 (q) Motor vehicle and pedestrian access and circulation systems, including connections off-site, and associated dimensions; and
 (r) Motor vehicle and bicycle parking areas and design, number of spaces, and loading areas.

- (11) "Siting standards" means standards regulating placement of structures on a lot or parcel including setbacks, height, bulk, scale, and lot coverage. Siting standards include, but are not limited to, standards that regulate perimeter setbacks, dimensions, bulk, scale, coverage, minimum and maximum parking requirements, utilities, and public facilities.

- (12) "Traffic impact analysis" means a report prepared by a professional engineer that analyzes existing and future roadway conditions.

- (13) "Usable outdoor space" means one of the following:

- (a) Outdoor recreation areas surfaced with lawn, groundcover, gravel, or hard surface. The area must be 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;

Laura Terway
2026-07-06 18:46:00

Unclear how the slope should be calculated. The difference between the highest and lowest elevations divided by

Laura Terway
2026-07-07 16:55:00

Allowing development on constrained lots broadens the program is contrary to the intent of the legislation to avoid environmentally sensitive areas. This also conflicts with the earlier provisions

Laura Terway
2026-07-06 19:31:00

Added "all" to clarify the lot/parcel would need to be vacant in order to meet the legislative intent.

Laura Terway
2026-07-06 19:43:00

Since (a) lists a minimum size, it infers that there is no minimum size for any of the other options. It is likely irrelevant because the setback area itself would be sufficient to provide "usable outdoor

- (h) Walking fitness course;
- (i) Natural area with benches; or
- (j) Gardening area with at least 50 square feet of planting area.



Statutory/Other Authority: ORS 197A.408

Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

RULE SUMMARY: This rule creates the local government review process for the development of an Oregon Homes Lot.

CHANGES TO RULE:

660-047-0020

Local Government Review Process

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

(1) Local governments must issue a land use decision, notwithstanding any comprehensive 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 check, being no more rigorous than a ministerial review. Administration of this review shall only be to ensure compliance with standards provided in OAR 660-047-0020 through OAR 660-047-0050 and shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment.

(3) A local government shall deem an application for an Oregon Homes Development complete when the applicant provides the following information to the local government:

(a) Site plan and exhibits that address requirements provided in 660-047-0010, 660-047-0030, 660-047-0040, and 660-047-0050;

(b) Building plans and elevations demonstrating the grade within five feet of the building that meet the requirements of an Oregon Homes Development provided in OAR 660-047-0010

(5); and

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

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

(5) Applicants shall bear the burden of proof to provide information necessary to determine if the application meets the applicable provisions of this division.

(6) A local government shall not require a public notice or hearing in reviewing or approving an Oregon Homes Development application.

(7) Nothing in this section precludes a local government from applying locally administered standards, final engineering plans, or requirements resulting from the development review processes for an Oregon Homes Development application.

allowed include grading, erosion control, sight distance, traffic safety and impact analysis, driveway and access, stormwater, water, sewer, fire department, ADA, dedications, public improvements, and geotechnical requirements. The order in which a local government applies these locally administered standards or plans during the application or review period is determined by the local government at their discretion. A local government shall not establish public facilities plans, final engineering plans, or traffic impact analysis requirements uniquely for an Oregon Homes Development that exceeds the process applied to all other residential development of the same type.

(8) A local government may charge applications a review fee compatible to similar development applications.

(9) A local government shall deny an Oregon Homes Development application if the application does not meet the requirements provided in OAR 660-047-0030 through OAR 660-047-0050.

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

Statutory/Other Authority: ORS 197A.408

Laura Terway

Laura Terway

2026-07-06 19:40:00

Laura Terway

2026-07-06 19:45:00

Laura Terway

Laura Terway

Laura Terway

2026-07-06 19:50:00

This does not require any garden or plants to actually be planted or water/irrigation.

Laura Terway

2026-07-06 20:02:00

The draft requirements are not clear and objective and as demonstrated in these comments, they include an abundance of discretion, interpretation, policy or

Laura Terway

2026-07-07 20:29:00

Building elevations needed to verify height and design.

Laura Terway

2026-07-06 20:25:00

It is unclear what standards may be applied. List as many applicable standards for clarity as possible.

Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

RULE SUMMARY: This rule establishes a set of design standards for an Oregon Homes Lot including entry orientation,

garages and driveways, and waste storage facilities.

CHANGES TO RULE:

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 may apply only the following design standards outlined in this section 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 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) Local requirements for the number and design of off-street parking and associated parking lot landscaping shall apply to cottage clusters and multiunit developments. However, 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 between the forward most dwelling and the street, shall not exceed a total of 50 percent of the street frontage. Oregon Homes Development in which all units meet one of the following are excluded from this standard:

- (a) Accessible and adaptable units; and
- (b) Lots that receive vehicular access only from an alley.

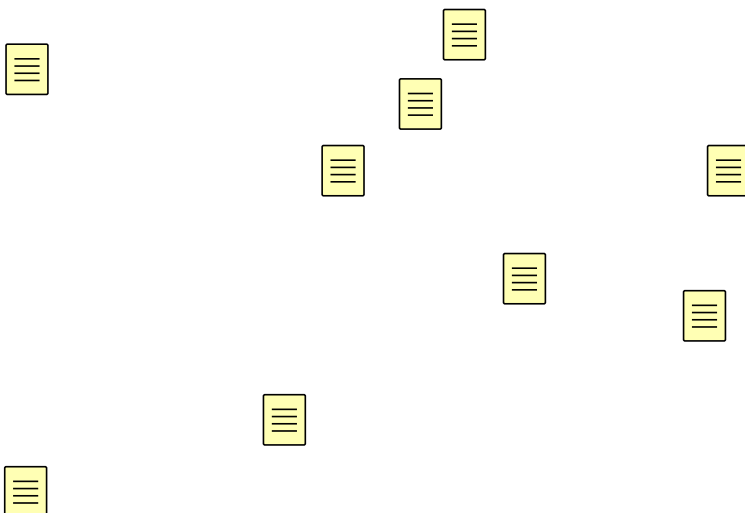
(3) Trash or recycling receptacles for all cottage clusters, all multiunit developments, or other homes are located within 20 feet of a lot line shall meet the following standards:

(a) The storage facility shall be enclosed by a wall, solid fence, or evergreen hedge. The height shall be no more than 3 feet from the storage facility.

(b) The storage facility must be separated from the street lot line by at least 5 feet.

Statutory/Other Authority: ORS 197A.408

Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420



Laura Terway 2026-07-06 21:39:00	
	Happy valley currently does not regulate which direction a dwelling faces (other
Laura Terway 2026-07-07 21:22:00	
Laura Terway 2026-07-06 20:35:00	there are no minimum dimensions for parking areas.
Laura Terway	
Laura Terway	
Laura Terway 2026-07-06 20:37:00	
Laura Terway 2026-07-07 22:02:00	
Laura Terway	
Laura Terway 2026-07-07 21:55:00	Changed to simply require around the
Laura Terway 2026-07-06 20:49:00	cans or a dumpster.
Laura Terway 2026-07-06 20:46:00	al zone or a property developed with a residential use? Does
	The 10% variance is not required in the House Bill and is misleading as it is required to be approved. The standard is not challenging and does not require a variance. The extra process adds

RULE SUMMARY: This rule establishes a set of siting standards for an Oregon Homes Lot including setbacks, density, and required outdoor areas.

CHANGES TO RULE:

660-047-0040

Siting Standards

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. A local government may apply only the following siting standards in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot as outlined in this section. An Oregon Homes development must:

- (1) Provide a setback of 5 feet on all sides of the building or the distance required for an easement. For buildings greater than 35 feet in building height, the setbacks must be consistent with the requirements of the applicable zoning ordinance.
- (2) The use and density is permitted in the zoning designation and the minimum density comprehensive plan or land use regulations for the lot or parcel are met.
- (3) Provide outdoor area that is beyond lot area counted towards setbacks comprising 15% of the gross site area 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 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;
 - (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.
- (4) Statutory/Other Authority: ORS 197A.408
Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

Laura Terway

2026-07-06 21:04:00

Laura Terway

2026-07-06 21:16:00

Laura Terway

2026-07-06 21:25:00

The 15% is met in the setbacks. See additional notes in the definition. 1,500-20,000 square foot lot size?

RULE SUMMARY: This rule establishes standards to guide the preservation, replanting, and removal of trees on Oregon Home Lots.

CHANGES TO RULE:

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 at time of initial submittal for the dwelling(s) onsite.

- (1) Approval of an Oregon Homes 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 the removal of trees as part of the development application. The applicant shall take mitigating measures to replace the tree proposed to be removed that is:
 - (a) Designated by the local government through an adopted program, regulations, or ordinance, or
 - (b) A species of tree that is native to the area.

Laura Terway

2026-07-06 21:27:00

Regulating tree removal beyond the initial construction of the dwellings onsite exceeds the legislative intent of a pre-approved building. Further, each home approved through this program

(b) Not deemed unhealthy by a certified arborist; and

(c) 12 inches or more DBH.

(3) If all of the criteria listed in OAR 660-047-0050 (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; 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

Laura Terway

2026-07-06 21:29:00

The determination of "healthy" is not clear and objective.

Talking Points for Testimony to LCDC

City of Albany

Thank you, Chair Lazo and members of the Commission, for the opportunity to testify. For the record, my name is Alex Johnson, II, Mayor of the City of Albany. Oregon.

The Oregon Homes rules, as currently written, cannot and should not be implemented.

Oregon's strength lies in the diversity of its communities, from small rural towns to large urban centers. That diversity presents real challenges, and it is not possible to design a single statewide program that works for all communities.

Before highlighting a few specific issues in the proposed rulemaking, I want to emphasize how these details illustrate much larger structural problems with a one-size-fits-all approach.

- A universal 5-foot setback standard fails to account for major differences in local conditions, including infrastructure constraints, absence of sidewalks, existing franchise utility easements, and most importantly each city's fundamentally unique community character.
- There is an inherent conflict between the draft rules and the legislation in that the legislation intentionally uses "may," while the rules interpret "may" as "shall." This contradicts legislative intent and what was communicated to cities during the legislative process.
- The legislation gives LCDC the option to determine whether all siting standards should be regulated. That option is not provided through this rulemaking.
- A statewide "shall" mandate cannot work given the variation in infrastructure, public utilities, and the unique character of communities across Oregon.

Regarding the RAC Process in General

- The League of Oregon Cities (LOC) and Cities like Albany participate in nearly every DLCD Rulemaking Advisory Committee (RAC).
- From the experience of ours and other city's staff, who are in fact the subject matter experts, the RAC process needs improvement.
- We as jurisdictions dedicate substantial time and resources to meaningfully engage in RACs.
- Despite this, draft rules have not changed in response to this feedback.
- In many cases, our input has been dismissed or rejected outright.
- DLCD's RAC structure should be reworked to:
 - Present a draft framework early that reflects input from practitioners (Cities) and developers by incorporating their feedback directly into revisions.
 - Create separate community engagement events and accessible venues for community members to provide feedback without needing to navigate highly technical discussions.

Oregon's cities want to achieve housing goals. But for that to happen, we need rules that respect the diversity of our communities, reflect legislative intent, and are shaped through a collaborative process

that values the expertise of local practitioners.

Thank you for your time and consideration.



July 29, 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 is supportive of and appreciates the State and DLCD 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, and that they work as intended.

The role of our Bureau's Code Development Team is to translate policy aspirations and guidance into tangible, implementable, and defensible rules. One of those major undertakings was the Residential Infill Project (RIP) which introduced middle housing to the City of Portland's single-dwelling zones, prior to the State's passage of HB2001. RIP has proven quite successful, adding 1,400 middle housing units to our single dwelling zones in its first 3 years, with home prices about \$250,000 less than the large single houses that prior zoning allowed. The magic ingredient that makes RIP stand out as a national model for cities across the country is the floor area limit on unit sizes, that disincentivize large single-family homes, while encouraging smaller and less expensive middle housing options.



City of Portland, Oregon | Bureau of Planning and Sustainability | www.portland.gov/bps
1810 SW 5th Avenue, Suite 710, Portland Oregon, 97201 | Phone: 503-823-7700 | Relay: 711

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Traducción e Interpretación | Biên Dịch và Thông Dịch | अनुवादन तथा व्याख्या | 口笔译服务 | Устный и письменный перевод | Turjumaad iyo Fasiraad | Письмовий і усний переклад | Traducere și interpretariat | Chiaku me Awewen Kapas | 翻譯または通訳 | ການແປພາສາ ຫຼື

These rules, as drafted, threaten to upend this successful strategy by creating virtually limitless entitlements and circumvention of basic zoning rules like height limits, building coverage, setbacks, and for Portland - floor area limits.

There are a number of other technical, legal and policy issues that negatively affect the ability for these rules to effectively carry out the legislative intentions for this program. We believe that these issues must be resolved before you act to adopt these rules. Should they be adopted as proposed, and then later found to include insufficient limitations, those changes would trigger a statewide Measure 56 property owner notification¹. The costs to the state to reimburse local jurisdictions for such notice (preparation, postage, materials, and staff time to field inquiries) are estimated to be \$2.5 to \$3 million, with a cumulative total of over 20,000 hours of planning staff time to conduct this notification process. Fixing those issues in the rules now may extend this process but well within the statutory deadline of January 1, 2027.

In addition to the high-level policy and legal issues described below, included is a 13-page point-by-point technical analysis of the draft rule language. A program that is intended to function as a seamless statewide system to be implemented consistently must be drafted with precision and clarity to lessen varying interpretation.

Policy Issues

We have identified several policy outcomes which we don't believe are aligned with the intent of these rules.

- **No effective unit size limits.** The rules preempt local government regulations but provide no limits on building height, very minimal setbacks, excessive lot coverage allowances, and no limit on the size of Oregon Homes. The rules describe a "buildable area" but essentially define this as the area of the lot left inside a 5 foot perimeter setback. On a 5,000 square foot lot, this "buildable area" amounts to 3,600 square feet. But that is only the building footprint size limit. A three story building could be as large as 10,800 square feet (more than 2.5 times larger than the size allowed for a fourplex under our current rules). We recognize that a "floor area ratio" (which is a proportionate amount of building size to the lot size) would be impractical to apply to preapproved home designs. However, we recommend the rules add specific unit size limits, for example based on already

¹ ORS 197.047(10) "The provisions of this section apply to all statutes and administrative rules of the Land Conservation and Development Commission that limit or prohibit otherwise permissible land uses..."



adopted rules related to Goal 10²: "Oregon Homes Development may not exceed the following average square footage per dwelling unit:

(A) For detached single-unit dwellings: 1,800 gross square feet;

(B) For townhouses and duplexes: 1,500 gross square feet; and

(C) For all other housing types: 1,200 gross square feet."

- **Bigger units equals more expensive housing.** The reason these size limits are critical is that from our RIP monitoring analysis³ 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 1,400 square foot unit (\$420,000) and a 3,600 square foot unit (\$1,080,000) is 157% more expensive.
- **Lack of local siting standards creates *greater* uncertainty for builders.** 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 franchise utilities in more constrained space. 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.

Legal Issues

In addition to the policy issues, there are a few significant legal questions. As you are aware, a rule "interprets or prescribes law or policy" for a state agency (ORS 183.310). State boards and commissions have the authority to write rules that clarify details and implementation of statutes or programs. However, according to Steven Wolf, Chief Counsel for the Department of Justice, "An agency may adopt rules only pursuant to statutory authority...Agencies may not adopt rules that are beyond

² 660-008-0425 Comparison to Local Actions and Land Use Regulations (2)(a)

³ Middle Housing in the Single-Dwelling Zones, Progress Report 2018-2024, City of Portland
<https://efiles.portlandoregon.gov/record/17159748>



their rulemaking authority. An agency may not adopt a rule that is unconstitutional, conflicts with a valid statute, or is outside of the range of discretion allowed by the statute the agency has been authorized to implement.”⁴

Conflicts with valid statute – Proposed review process.

The rules propose that Oregon Homes be reviewed through a ministerial review process instead of a land use review; however, the Commission cannot adopt rules that directly conflict with existing statute.

The bill states: “(2) The Land Conservation and Development Commission may adopt rules requiring local governments *to issue a land use decision*, notwithstanding any comprehensive plan or land use regulations or statewide land use planning goals, approving the development of specified residential development types on certain lots or parcels under specified conditions.” (HB2258, SEC 2(2))

ORS 197.015(10) defines a land use decision as “(b) *Does not include a decision of a local government:*
(A) That is made under land use standards *that do not require interpretation or the exercise of policy or legal judgment;*
(B) *That approves or denies a building permit issued under clear and objective land use standards;*

And yet, the rules state: (2) Local governments shall review applications for Oregon Homes Development on an Oregon Homes Lot local government through completeness check, being no more rigorous than a ministerial review. Administration of this review shall only be to ensure compliance with standards provided in OAR 660-047-0020 through OAR 660-047-0050 *and shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment.*” OAR660-047-0020 (2).

In OAR660-047-0020 (6) the rules go on to limit public notice and hearing, which also is in conflict with SEC17 (5) of HB4037 (should these be reviewed ministerially) and ORS 197.797 (should these be reviewed as a land use decision).

Outside the range of discretion allowed – Eligible Oregon Homes lots.

The bill states that “A rule issued under this section ***may only pertain to lots or parcels that are:*** (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;” (HB 2258, SEC 2(2)(g))

⁴ “Overview of APA Rulemaking” Steven Wolf, Chief Counsel and Amy Alpaugh, Opinions Counsel, Oregon Department of Justice <https://olis.oregonlegislature.gov/liz/2017R1/Downloads/CommitteeMeetingDocument/95644>



However, the rules state: (i) If a lot or parcel is otherwise eligible for an Oregon Home's Development, but within an area identified in paragraphs (A)-(C) [list of constraints], development of an Oregon Home is still allowed so long as the developable area is wholly outside of the inventoried area, and its subject protections." (660-046-0010(8)(i))

HB2258 does not specify that these lots may be reconsidered under rule. The rules may only pertain to lots that are outside of those areas. Furthermore, from an implementation perspective, identifying whether and to what extent a "developable area is wholly outside of the inventoried area" cannot be readily achieved through a non-discretionary, clear and objective manner.

Improper delegation - Eligible Oregon Home plans.

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, ***or housing types that meet the criteria as provided in subsections (a)-(d) and approved through local building code review.***

Technical Issues

The following 13 pages detail a point-by-point analysis of the draft Division 47 rule language, including proposed changes to Division 46 related to middle housing. For the program to function as a seamless statewide system and to be implemented consistently, the rules must be drafted with precision and clarity to lessen varying interpretation across 241 Oregon cities and 36 counties. We offer these recommendations in support of that aim.

Sincerely,



Patricia Diefenderfer
Chief Planner



660-046-0020 (2) Cottage cluster definition

- **Internally inconsistent.** The revisions to the definition are not carried through to the standards themselves (compare with 660-046-0220(4)) which creates internal inconsistency and conflict.
- **Not clear, leads to multiple interpretations.** The statement “Each have a small footprint or floor area such that units have an average of 1,400 square feet” is unclear as it points to separate types of measurements that must be averaged across multiple units. Is the standard an average of the floor area of all the units, or the footprint size of all the units? Is it both? Can they be mixed and matched? While the standard is arguably objective, it is not clear.
- **Doesn’t fulfill the legislative directive.** As a reminder, the commission’s rulemaking charge under HB2138 SEC 22(1) is to: “adopt rules that must include...(c) Regulating cottage clusters *for the purposes of incentivizing the provision of smaller, less expensive housing*, shared community amenities and other public benefits and including regulations that implement the term “small footprint or floor area” as used within the definition of cottage clusters in ORS 197A.420;”. There are several changes in these rules that lead to **bigger** and thus more expensive housing, including:
 - *Increasing the allowed footprint size from 900 to 1,400 square feet*
 - *Conflating footprint and floor area (see above)*
 - *Excluding porches (no size limit) and garages (no size limit) from the calculation of the footprint and/or floor area size.*

The current rules permit units with 900 square foot footprints, that are roughly 2 stories tall, and the middle housing model code describes an average maximum floor area of 1,400 square feet. This means that units can be as large as 1,800 square feet, provided other units are smaller to compensate which creates a variety of priced units. But on average, **under current rules these units run about \$420,000.**

The changes to the rules allow a footprint average of 1,400 square feet, plus a garage (assume 200-400 square feet), for a total unit size of 3,000-3,200 square feet. On average, **under the proposed changes, these units would run about \$960,000.**

- **Inadvertently vastly expands the size of clusters.** The definition incorporates HB2138 which allows configurations of cottage units “That are detached *or attached in subgroupings of up to four units* in any configuration.” The draft rules attempt to clarify that detached units were not limited to ‘subgroupings’ of four units. However, as drafted the rules state: “...dwelling units that are attached in subgroupings of up to four units or detached in any configuration with no limitation on total number of cottage cluster units;” This additional statement implies that there is no upper limit on

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the total number of cottages allowed in a cottage cluster. This would be a severe policy pivot with no legislative directive to do so and may trigger the need for us to reevaluate our infrastructure sufficiency.

Other comments on Division 46 (middle housing) rule changes

- **Fails to incorporate other changes required by HB2138.** Unless changes are also proposed to the model codes referenced in OAR 660-046-010 (4), cities will be unable to simultaneously comply with the statute and rules.
 - HB2138, SEC 1 (2) Changes to eligible lots.
"each county, each city with a population of 25,000 or greater, and each city with a population of 1,000 or greater within Metro, shall allow the development of all middle housing types [in areas] on **each lot or parcel** zoned for residential use. [that allow for the development of detached single-family dwellings;]
This means that OAR 660-046-0205(3) which refers to alternate lot sizes and eligibility of middle housing "in areas" criteria and the different lot size standards described in 660-046-0220 are no longer valid.
 - HB2138, SEC 1 (6) Limitations on traffic impact analyses and off site exactions. While this may not necessarily need to be stated in rule, it may be helpful to reference.
 - HB2138, SEC 3 Affordability and accessibility bonuses. OAR 660-046-0205 does allow for cities to permit more units on lots with middle housing, but neither the rules nor the middle housing model codes reference bonuses, which could be construed as the bonuses are not compulsory for cities.
- **Addressing future changes and alterations to cottage units is welcome.** The changes that add 660-046-0020 (2)(c)(ii) clarify how cities may regulate cottage units after the initial development is complete. This enables cities to allow incremental home additions or other alterations and not hold these homes in amber.



660-047-0010 Definitions

1. **(1) "Building Height"** uses some hybrid of building code terminology that is neither the same as nor consistent with the ORSC:

OAR: "the vertical distance from grade plane (measured from the lowest ground surface a maximum of five feet from the building wall) to the average height of the highest roof surface (measured to the tallest point of the roof of the building)."

ORSC: "the vertical distance from grade plane (defined as a reference plane representing the average of the finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls the reference plane shall be established by the lowest points within the area between the building and the lot line or where the lot line is more than 6 feet from the building, between the structure and a point 6 feet from the building) to the average height of the highest roof surface."

ISSUES:

- "Grade plane" is not defined in the OAR.
- The building code uses 6 feet, the OAR specifies 5 feet.
- Introducing new methodology invites new interpretation, application, and challenge. Building height is one of the more common subjects of appeals to LUBA.

RECOMMENDATION:

Our recommendation for the Oregon Homes program is that review of the *building* be conducted independent from the *site* review. In this context, the building codes division would determine the building height. Since this review would occur absent a specific site, there would be no "grade plane" to reference. Consequently, the height should be measured from the top of the lowest foundation, or lowest finished floor.

2. **(4) "Developable area"** provides some clarity as to what is considered in the maximum allowable 'developable area' on a lot (essentially the area excluding setbacks). However, it is unclear whether other aspects of housing development (such as driveways, utilities, grading) are or are not included in developable area. This is an important consideration when applying to the staff's expanded interpretation of an "Oregon Homes Lot" (8)(i), which states that constrained lots that were expressly excluded by state statute can be included if "the developable area is wholly outside of the inventoried area". Additionally, while the definition refers to area not including required open space, there is no specific required open space.



ISSUES:

As written, developable area' means the entirety of a lot except for a 5 foot perimeter setback. We are not sure if this is the intent.

It is not clear if developable area includes associated development disturbance area like grading, access or utilities.

RECOMMENDATION:

- Clarify 'developable area' as necessary to reflect intent.
- We find that the "developable area" standard is insufficient to effectively limit large and expensive housing, and should be supplemented by a maximum building size limit (such as floor area, footprint, and/or building height)

3. **(6) "Final engineering plans"**. This appears to be copied and pasted from the wrong set of regulations as it refers to tentative plat approval. The Oregon Homes program is not associated with the land division process.

RECOMMENDATION:

Revise the definition to remove reference to the plat process:

"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.

4. **(7) "Oregon Homes Development"** this definition largely repeats statutory language in HB2258, with three notable and significant exceptions:
- a. **The definition increases the allowed "buildable area" for duplexes, triplexes and quadplexes by 2-4 times what is described in the bill.** Additionally, as noted elsewhere, the size allotment for housing types when limited only by "buildable area" will result in large and expensive housing contrary to statements made in the DLCD Impact Statement which says "To the extent that the Oregon Homes are limited in size (2,200 sq.ft., or 1,400 sq.ft. for MFR) these units might have lower costs in a local housing market where the average unit is larger than these maximums." The buildable area alone does not limit Oregon Homes, which can be multiple stories tall. Even so, the rules propose an exponential increase in even that amount of allowed area:

Compare:

HB2258 (SEC 2(4)(b)): Buildable area of

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



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

OAR 660-047-0010(7)(b): 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.

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

RECOMMENDATION:

Rulemaking cannot invent statutory language that is not there. Remove provisions in the rules that are inconsistent with the plain read of the bill by removing the phrase “per dwelling unit” from the buildable area descriptions in Oregon Homes Developments. Add limitations to address the overall maximum size of the units themselves. See proposed text below.

- b. Expands the avenues available for pre-approval beyond what is specified in the bill.** In addition to “pre-approved house plans” available through the building codes division per ORS455.062, and “pre-certified plans” submitted to the building codes division for regional/statewide approval per ORS 455.685, the rules invent a third process through a local code review. The first two avenues are described in HB2258 SEC 5 (1). There is nothing in HB2258 describing this third process, which amounts to improper delegation of authority.

RECOMMENDATION:

- Remove approval pathways that were not prescribed by statute, are inconsistent with the bill’s intent to provide a “pre-approval” process, and convey administrative burden from the state to local jurisdictions.
- Related - subsection (8)(h)(D) which describes when Oregon Homes development is allowed should be updated to remove reference to this third approval pathway.

- c. Inadvertently allows for housing types not envisioned in statute.** The sentence construction in (7)(e) implies that housing types reviewed under ORS 455.062 or 455.685 are not subject to the criteria in subsections (a)-(d) that specify the types of housing listed in the bill. This potentially opens up a loophole to allow much larger multi-unit buildings.

OAR: “(e) Housing types whose building plans have been approved by Department of Consumer and Business Services pursuant to ORS 455.062, ORS 455.685, **or housing types that meet the criteria** as provided in subsections (a)-(d) and approved through local building code review.



ORS 455.685 states "The Director of the Department of Consumer and Business Services may... review and approve the application for the construction or erection of **any building** or structure if such set of plans meets the requirements of the state building code."

- d. **The code structure is faulty, leading to multiple interpretations of what is allowed.** The rules should use this opportunity to provide clarity to the statutory language. The list of what qualifies as an Oregon Homes Development is neither additive nor mutually exclusive. As such, it is uncertain whether the parts are supposed to be read together or independently (neither is correct). The list should be restructured.

RECOMMENDATION:

Clarify that housing types approved by DCBS pursuant to ORS 455, 062 and 455.685 must also meet the criteria in subsections (a)-(d).

Restructure the definition to a set of requirements that can be read together. Alternatively, move the standards (minimum density, size limitations) into the appropriate siting or design standards section.

(7) "Oregon Homes Development" means residential development that meet the following:

- a) Modular, prefabricated, or site-built;
- b) Complies with minimum density requirements;
- c) Is one of the following residential structure types:
 - (A) attached or detached units, with a developable area not larger than 2,200 square feet and up to the following unit sizes:
 - (i) single unit dwelling not larger than 1,800 sf
 - (ii) ADU not larger than 800 sf
 - (iii) Duplex, Triplex or Quadplex not larger than 1,500 square feet per unit on average; or
 - (B) Cottage units with a developable area not larger than 1,400 square feet per unit and unit sizes limited as follows:
 - (i) up to four units attached, not larger than 1,200 square feet per unit on average
 - (ii) detached unit not larger than 1,200 square feet; or
 - (C) Multi unit building of 7 to 11 units, with a developable area not larger than 1,400 square feet per unit and the building is not larger than 1,200 square feet per unit on average; and
- d) The building plans have been approved by DCBS per ORS455.062, or ORS 455.685

5. **(8) "Oregon Homes Lot"** this definition largely repeats statutory language in HB2258, with one extremely critical exception.



While the statute (HB2258 SEC 2 (3)) states that “A rule issued under this section **may only pertain to lots or parcels that are not within an area** identified in an inventory or map that is part of the local government’s comprehensive plan as [constrained]”

Somehow the rules (OAR 660-047-0010(8)(i)) have interpreted this to mean “if a lot or parcel is otherwise eligible for an Oregon Home’s Development, but [is] within [a constrained] area..., development of an Oregon Home is still allowed so long as the developable area is wholly outside of the inventoried area, and it’s subject protections.”

We are perplexed by DLCs attempt to incorporate lots into its rulemaking that are expressly excluded by the statutory language in HB2258.

This expansion of Oregon Homes Lots exceeds statutory rulemaking authority (ORS 183.315-415) Agencies may not adopt rules that are outside of the range of discretion allowed by the statute the agency has been authorized to implement.

RECOMMENDATION:

Delete OAR 660-047-0010(8)(f).

6. **(8)(h) “Vacant”** The problem is that an ADU will always be ineligible for an Oregon Homes development unless it is built in conjunction with a new house. The definition for “vacant” pertains to qualifications for an eligible Oregon Homes Lot. It largely follows statutory language, and the root of the issue is in the legislation. A vacant lot cannot have only an ADU (it is always in conjunction with a primary dwelling unit), and if there is a house on the lot, then the lot is not considered vacant.

RECOMMENDATION: Acknowledge the problem and seek a legislative fix to enable preapproved ADU plans on lots with existing houses.

7. **(9) “Public Facilities Plan”** The intent appears to be to allow cities to continue to apply public works and infrastructure requirements, to ensure homes have necessary services and utilities, and that proportionate street dedications and improvements are achieved. However, the definition is a bit vague, pointing to “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.”

The latter half of this definition seems unnecessary within the context of the applicability of this program (and potentially excludes cities smaller than 2,500 from applying their engineering standards). In Portland, our support document to the Comprehensive Plan is the Transportation System Plan and Citywide Systems Plans. These are assessments of the systemwide capacity and the major and minor projects necessary to meet project growth. Neither documents include



specific development standards that would apply to a particular development. Additionally, stormwater is not cited nor are private utility providers such as internet, gas, electric and cable.

RECOMMENDATION:

Revise the definition to reflect the infrastructure development rules, not the planning assessment. For example:

"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.

8. **(10) "Site plan"** The site plan calls for information that would not be pertinent to the review since there are no associated standards or criteria (bicycle routes, floor area, usable open space, outdoor area coverage, pedestrian access and circulation and dimensions, bicycle parking area and design, loading spaces). We think these are valuable items to consider and regulate, however, if there is no associated requirement, then it is a waste of the applicant's time, and clutters the review. It may be that these are in part intended to address site plan information related to public works and infrastructure review. In that case, by themselves they are woefully inadequate. Cities have already created application requirements for their public works/infrastructure related reviews.

RECOMMENDATION:

Remove extemporaneous detail and defer instead to the local jurisdiction site plan requirements as follows:

"Site plan" means the site and/or development plans drawn accurately to scale and include the information required to assess compliance with the public facilities requirements and the applicable criteria of this division.

9. **(11) "Siting standard"** For reasons that are not explained, siting standards here are defined differently than in Division 46. This raises question as to the intentionality of the distinction. How should local jurisdictions make differentiated determinations about the meaning of what is/is not included in "siting standards" between these two divisions?

DIV 46 (Middle Housing): "Siting Standard" means a standard related to the position, bulk, scale, or form of a structure or a standard that makes land suitable for development. Siting standards include, but are not limited to, standards that regulate perimeter setbacks, dimensions, bulk, scale, coverage, minimum and maximum parking requirements, utilities, and public facilities

DIV 47 (Oregon Homes): "Siting standards" means standards regulating placement of structures on a lot or parcel including setbacks, height, bulk, scale, and lot coverage. Siting standards include, but are not limited to, standards that regulate perimeter setbacks, dimensions, bulk, scale, coverage, minimum and maximum parking requirements, utilities, and public facilities.



Additionally, we recommend that siting standards (specific to the placement and orientation of the Oregon Home Development) remain the purview of local jurisdictions.

RECOMMENDATION: Revise the definition of siting standard in division 47 to match division 46, vice versa, or other change specifically tailored to Oregon homes such as:

"Siting Standard" means a standard applied to the placement and orientation of an Oregon Home Development on a lot or parcel. Siting standards include setbacks, footprint or building coverage, size and location of outdoor area, entry orientation to the street, and parking location.

10. **(12) "Traffic impact analysis"** There is nothing wrong with this definition. Only that HB 2138 limits local jurisdictions from requiring a traffic impact analysis for middle housing up to 12 units. Some jurisdictions may still wish to require an analysis for the 7-11 multi unit buildings.

RECOMMENDATION: N/A.

11. **"Useable outdoor space"** This definition cannot seem to decide whether it is a definition or a standard, which is also evidenced by its repeat appearance in the siting standards, where it is called something different. See comparison in table below. Discrepancy leads to confusion/different interpretation. Is there an intention to somehow differentiate useable outdoor space from useable open space? Does one require a 10x10' dimension and the other does not? We don't believe a definition of this term is necessary and can instead rely on the siting standard, as modified (see comments under 660-047-0040).

RECOMMENDATION: Remove the definition. Rely on the language in the siting standards, but supplement that standard with minimum dimensions for each type of outdoor area including useable open space. More suggestions for revisions to this standard follow later under comments for OAR 660-047-0040.

Definitions -0010	Siting Standard -0030
(13) "Usable outdoor space" means one of the following: (a) Outdoor recreation area surfaced with lawn, groundcover, gravel, or hard surface.	(3) Provide outdoor area that is beyond lot area counted towards setbacks comprised of at least 15 percent of the gross site area 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 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 a contiguous and able to fit a 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.	(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.
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660-047-0020 Local Government Review Process

1. **(1) and (2) Land Use Decision.** This is a problem with the bill’s statutory language that call for “the Land Conservation and Development Commission [to] adopt rules requiring local governments to issue a land use decision [approving an Oregon Home]”. While we support using a ministerial, non discretionary process as the rules propose, this is not prescribed by HB2258 and **LCDC cannot adopt rules that directly conflict with existing statute.** The proposed rules specify that “this process...shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment.” ORS 197.015 (10) defines a land use decision as one that “(b) Does not include a decision of a local government: (A) That is made under land use standards that do not require interpretation or the exercise of policy or legal judgment; (B) That approves or denies a building permit issued under clear and objective land use standards”.

RECOMMENDATION: The remedy is to either include standards that allow for exercise of policy and judgement, or to seek a legislative fix to the bill. Consequently, the process section of these rules will need major reconstruction.

2. **(3) Submittal requirement internal inconsistency.** While the definitions refer to “housing types that meet the criteria as provided in subsections (a)-(d) and approved through local building code review” the review process in 660-047-0020 (3)(b) fails to require that those building plans receive local building code review.

RECOMMENDATION: Based on the lack of legislative direction to create this alternate process, we recommend that this third local building code review process be removed.

3. **(6) Notice and hearing.** As noted above, per HB2258, cities “must issue a land use decision”. ORS 197.797 establishes the required notice procedures for land use decisions. LCDC may not



suspend statute without the clear legislative direction to do so. There does not appear to be any such discretion afforded in HB2258.

RECOMMENDATION: Align the procedures in the rules to comply with ORS 197.797.

4. **(7) Public facilities plan review.** We would like this section to more clearly state that local governments can apply requirements for frontage improvements, dedication and that regulate access (e.g., to apply driveway regulations).
Additionally, there are elements of this review process that are not entirely clear. What happens when a development meets the Oregon Homes siting and design standards but not some aspect of infrastructure code and gets denied? Is the application incomplete or denied? What is the applicable standard that cities would cite in their review? The infrastructure review is referenced in 660-047-0020, but the criteria for approval/denial are in 660-047-0030-050. Are there available avenues for the applicant to appeal the determination/decision?

660-047-0030 Design Standards

1. **General comment:** We continue to advise that these standards be differentiated between elements that pertain to the *building* separately from how the building is *sited*, to facilitate a more streamlined review from the Building Codes Division and local government reviewers. For design standards, this would include maximum floor area (total, not a ratio), maximum height, maximum garage width (or some relationship of the garage to the dwelling unit width), and a "front door" or porch that can be oriented to a street. These can all be verified and measured independent of any specific lot, enabling that plan to be utilized on any qualifying Oregon Homes Lot, subject to the siting requirements that are described in section 0040.

As proposed, the rules will require that each building plan set be reassessed for each lot.

Granted, there are few applicable standards, but their application and outcome on building design may still vary based on the lot configuration, see comments under "parking" as an example.

RECOMMENDATIONS:

- Clearly separate standards that apply to the building from the standards that apply to placement of the building.
 - Defer to local jurisdictional siting standards (see comments under 660-047-0040)
 - Adopt maximum unit size standards (floor area, height, footprint/coverage)
2. **(deleted) Minimum window requirements.** In the latest evolution of the rules, the proposed requirement for 15% windows was deleted. There was no explanation or rationale provided for their removal. RAC members had advised greater clarity in the standards, but clarity is very different from absence. This standard is important to enhance public safety by allowing people



to view their neighborhood from their residences; and to provide a pleasant pedestrian environment by preventing large expanses of blank facades along streets. That is important for fostering active transportation options that improve social and health outcomes.

RECOMMENDATION: reinstitute a minimum street-facing window requirement. As a stand-alone building design standard, this could translate to "The façade with the main entrance must include at least 15% of the area as windows and main entrance door."

3. **(2) Parking.** The design standards specify limits on "garages, carports, on site parking or vehicle maneuvering areas" when they are proposed. We appreciate that there is a standard that limits the combined width of these attributes but note that its effect on a site or building is entirely dependent on the amount of street frontage present on a lot. For example, if a lot is pie shaped (e.g. on a cul de sac) it may have only 10 feet of street frontage, and would only allow a 5' wide garage. Some lots have no street frontage and are accessed via easements. In addition, we are concerned that the standards do not anticipate the need to egress in a forward motion on major streets. This is a safety issue. Local siting requirements are better tailored to address these site-specific issues.

RECOMMENDATIONS:

- For simplicity, limit width of the garage to 50% of the building façade length.
- Defer to local siting standards to address access and driveway requirements.

4. **(3) Trash and recycling.** We are also appreciative that the standards attempt to address trash and recycling. However, the standard does not *require* such areas (notably absent for 7-11 unit apartments) it just requires that *if there is a facility* that it be placed 5 feet back from the street (which may not always be optimal), and that it be screened from the street and abutting residential properties.

RECOMMENDATIONS:

- Add a requirement and minimum dimensional standards for trash and recycling areas for multi-unit buildings. Alternatively, include "solid waste collection" as a type of public facility that is subject to independent review outside of these rules.
- Change the term "facility" (refers to a place, building, or piece of equipment) to "area" (refers to a specific geographic region, a bounded two-dimensional space, or a section set aside for a particular function).

5. **(4) Variances.** There is simply too much ambiguity in applying a 10% variance to any standard in the section. For example, what does it mean for a pedestrian entry to face a common open space 10% less? Can the porch be 10% less "covered"? Additionally, some of these requirements



are not illustrated on the site plan.

RECOMMENDATION: Clarify by revising as follows:

"A local government shall approve an Oregon Homes Development application if the ~~proposed site plan~~ varies not more than 10 percent from the numerical design standards described in this section."

660-047-0040 Siting Standards

1. **General comment:** Throughout the discussion of rules at the RAC, DLCD staff were advised by jurisdictional partners that local siting requirements are necessary to respond to the plethora of unique conditions that exist in various cities and counties. These differences exist due to a multitude of reasons including lot shape, size, orientation, topography, as well as the different systems employed by municipalities to ensure public infrastructure is sufficient, efficient, feasible, and responds to the demands of development. Each jurisdiction maintains different siting standards based on a litany of prior regulatory decisions from what kinds of materials are used, what clearances are necessary, to what equipment each has in order to construct, access, and maintain their facilities. In addition, the capabilities of each jurisdiction's fire departments varies based on what sort of personnel, equipment and vehicles are available to service and respond to incidents.

We raise these points because:

- There has been little done in the proposed rules that respond to these concerns
- A local jurisdiction's siting standards (e.g. setbacks, building coverage, and access) have been tailored to the needs, resources and capabilities of each city and county, and the proposed siting rules are inadequate.

The following comments on the proposed siting standards draw from Portland's own requirements and may not reflect the specific challenges of the other 241 Oregon cities and 36 counties.

RECOMMENDATION: We have previously suggested that the rules could find an acceptable middle ground, by adhering to local siting requirements (setbacks, building coverage, access, etc) and then also stipulate that local governments must grant 10% reductions to those numerical requirements in their codes in order to site an Oregon Home. The reduces the potential risk to public works and emergency response services while continuing to provide both certainty and flexibility to applicants.

2. **(1) Inadequate setbacks.** Most of Portland's residential lots (R5 and R2.5) specify a 5 foot side and rear setback. But this is also used in combination with a 10-foot front yard, 250 square foot outdoor area, and building coverage limits to ensure stormwater can be managed onsite in



most cases. We also require an 18 foot garage entrance setback to ensure that there is adequate room to park a car outside the garage, as parking inside the garage is somewhat of a rarity. In the areas where we have allowed a 5 foot garage setback, we have seen repeated issues of cars parking in ways that obstruct the sidewalk, creating a danger to pedestrians and serious impediment to folks using mobility devices. In addition, cars backing into the street with such a limited field of view creates hazards for motorists, pedestrians, and bicyclists.

RECOMMENDATION:

We suggest that *if* local siting standards continue to not be applicable, that this standard be revised to read:

"(1) Provide a minimum setback of 5 feet on the side and rear of the lot; 10 feet along a street side, and 18 feet to the entrance of the garage as measured along the centerline of the driveway. all sides of the building or the distance required for a proposed or existing utility easement. For buildings greater than 35 feet in building height, the setbacks must be 10 feet on all sides. Building height is defined in OAR 660-047-0010."

3. **(3) Ineffective outdoor area dimensional standards.** This standard requires that 15% of the gross site area be provided as outdoor area, excluding area accounted for in the setbacks. While the amount of required area seems sufficient, the ways that it can be provided are not. There are no minimum dimensions, and some features would hardly qualify as meaningful outdoor area. Take for example a 5,000 square foot lot. This requires 750 square feet. (3)(c) allows "pedestrian hardscape". This could be met with a 5-foot-wide walkway around two sides of the building. (3)(d)(B) allows a rooftop deck, which does nothing to ameliorate stormwater disposal needs. Other options envision much larger open areas than what would reasonably be provided; tree groves, sports courts, swimming pools, natural areas. While we don't object to these features, we believe it conveys unrealistic expectations, and this level of specificity is unnecessary.

RECOMMENDATION:

We suggest that *if* local siting standards continue to not be applicable, that this standard be revised to read:

"(3) Provide outdoor area that is beyond lot area counted towards setbacks comprised of at least 15 percent of the gross site area, and containing one or more of the following features: The outdoor area must measure at least 15 feet in any direction and be located outside the required setbacks. Outdoor area must be surfaced with lawn, pavers, decking, or sport court paving which allows the area to be used for recreational purposes. User amenities, such as tables, benches, trees, planter boxes, garden plots, drinking fountains, spas, or pools may be placed in the outdoor area. It may be covered, such as a covered patio, but it may not be fully enclosed."



Required outdoor area may not be used as vehicle area. For multi-unit buildings, the required outdoor area may instead be provided as individual balconies that measure at least 4 feet by 6 feet."

4. **(4) variance.** Like the variance for design standards there is too much ambiguity in applying a 10% variance to "any standard" in the siting section. For example, what does it mean for an outdoor area to have 10% less of the listed features?

RECOMMENDATION

Revise this language to read:

"A local government shall approve an Oregon Homes Development application if the ~~proposed site plan~~ varies not more than 10 percent from the numerical setbacks or outdoor area characteristics requirements within standards described in this section.

660-047-0050 Tree Standards

1. **General comment.** We don't have substantive issues with this section, though some added clarity could improve implementation.





July 29, 2026

League of Oregon Cities

Land Conservation & Development Commission

635 Capitol St., Ste. 150

Salem, Oregon 97301

Re: Oregon Homes Draft Rules

Chair Lazo, Members of the Commission,

The League of Oregon Cities (LOC) represents all 241 cities across Oregon, from our small frontier communities to our large urban centers. The LOC and our members remain concerned with the Oregon Homes Rules, though we appreciate DLCD staff's ongoing efforts to understand the perspective of cities working on the ground.

We appreciate the opportunity to provide comments and participate in the rulemaking process. The League and our members understand and appreciate efforts to spur housing development; however, we remain concerned that the rules lack nuance needed to serve our shared goals for Oregon. We aren't going to relitigate the policy passed by the Legislature, what we will do is advocate for changes that make this program useable and less frustrating for developers.

This letter addresses two major over-arching concerns, and then the subsequent overall rule comments speak to specific section issues and includes a redline of the rules themselves, with additional LOC comments inserted in bold.

“May” vs “Shall”

There is an inherent conflict between these rules and the legislation. The legislation says “may” in many cases and the rules have interpreted this as a “shall,” contrary to the legislative intent and what was conveyed to cities during the legislative process. The legislation gives LCDC the option to decide if you want to regulate all siting standards; LCDC is not being given that option in this rulemaking process, and we encourage you to reclaim your statutory authority.

The “shall” option presented to you does not make sense on the ground, because there is such a high level of variation in infrastructure and public utilities in individual communities across the state. A statewide mandate of a uniform system will fail Oregonians; it will limit transportation options for Oregonians in smaller communities, disadvantage those living communities that don’t have existing sidewalk, and more.

We would suggest that LCDC adopt significant changes to OARs 660-047-0020, 660-047-0030 and 660-047-0040. Attached, we have provided comments and suggestions on the full breadth of the rules.

Like state government, local governments are asked to balance all things and hold all things equally. We must balance public safety, development, efficient land use, infrastructure, community interests, and more. The draft Oregon Homes rules do not strike that balance. They place housing development over all others needs local governments must manage for, ignoring local regulations that are aimed at public safety and community wellbeing.

Why not create a completely standardized statewide framework?

While the rules attempt to clear a big landing pad for potential Oregon Homes 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.

These rules assert that those standards are whims and that there should be a set statewide standard with exceptions for public utilities, emergency services and more. On the ground, this will simply make the exception the rule. A confusing variety of unclear regulations for a developer to follow, the published Oregon Homes standards versus what they will actually

have to do. Additionally, a developer could meet all the Oregon Homes standards and still not be approved because their plan didn't correctly account for fire access or public utilities. We don't want to create a process that is hard to navigate for developers, leading to costly delays and frustrations for all involved.

We strongly recommend you adopt significant changes to OARs 660-047-0020, 660-047-0030 and 660-047-0040 for this reason, as detailed below.

The Third Path

The legislation explicitly mentions two paths for building plan review through the Building Codes Division (BCD), either by selecting a pre-approved plan by BCD or by submitting your own plan to BCD as a developer. It is clear that the first two paths were intended by the legislation in HB 2258 Section 5 (1), but it is unclear as to whether a third path was originally articulated to the legislature or by the legislature.

A third path is created in the rules, allowing a developer to go to their local building department to get a plan pre-approved and get the benefits of the Oregon Homes program in that jurisdiction only. The third path represents a wholesale overturning of jurisdictions local zoning codes, not tied to the actual programmatic requirements of Oregon Homes of the pre-approved building plan. **We would advocate its removal due to its large-scale impact on local development codes and lack of statutory support.**

Thank you for your consideration!

Best,

Alexandra Ring
Housing and Land Use Lobbyist
League of Oregon Cities

Overall Rules Comments

660-047-0010 Definitions

As used in this division, the definitions in ORS 197A.420, apply. In addition, the following definitions apply:

- (1) "Building Height" means the vertical distance from grade plane (measured from the lowest ground surface a maximum of five feet from the building wall) to the average

height of the highest roof surface (measured to the tallest point of the roof of the building).

(2) "Grade plane"

LOC Comment: We are thankful for the additional clarity in this section, however there remain issues as this new definition is inconsistent with building code definitions and uses "grade plane" which is undefined. Building height remains one of the more common sources of LUBA appeal so it remains important that if rule is going to govern it, which it should not, that the language is at minimum clear.

(2) "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.

(3) "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, facade materials and appearance, window coverage, driveways, parking configuration, pedestrian access, screening, landscaping, and private, open, shared, community, or courtyard spaces.

(4) "Developable area" means the space on the lot not including setbacks, public utility easements, right of way, and any required open space.

(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.

LOC Comment: We appreciate and need to the definition of final engineering plans, however, this definition is incorrect as it includes “tentative plat approval” and this program is not associated with the land division process.

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

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

(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 including garages and driveways; and

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

LOC Comment: Because the (b) says buildable area, our members have questions about whether the square footage in the (A) and (B) refer to the lot or building square footage. The language needs clarification to be implemented across jurisdictions.

If alterations are going to be made to what exists in statute, then it needs to be made clear. The definition needs to cover if garages and driveways or utilities count towards this limit as well.

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

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

(e) Housing types whose building plans have been approved by Department of Consumer and Business Services pursuant to ORS 455.062, ORS 455.685 ~~or housing types that meet the criteria as provided in subsections (a)–(d) and approved through local building code review.~~

LOC Comment: Regarding this section it is clear that the first two paths were intended by the legislation, but it is unclear as to whether the third path was originally articulated to the legislature or by the legislature. The third path

represents a wholesale overturning of jurisdiction's local zoning codes, not tied to the actual programmatic requirements of Oregon Homes. We would advocate its removal.

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

- (a) 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;
- (f) Not covered by slopes averaging more than 15 percent; and
- (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;
 - ~~(D) If a lot or parcel is otherwise eligible for an Oregon Home's Development, but within an area identified in paragraphs (A-C), development of an Oregon Home is still allowed so long as the developable area is wholly outside of the inventoried area, and its subject protections.~~

LOC Comment: This section was not contemplated by the original legislation; in fact, the original legislation explicitly does not allow this. In negotiations and legislative conversations, the idea was that any lots to have any of the (A-C) characteristics would be wholly prohibited from the program. This is because of the curtailed review period required by the program and lots with these characteristics necessitate greater review to ensure the safety and durability of the building.

Additionally, hazard overlays are typically not mapped at a scale precise enough to reliably determine whether a proposed development is wholly

inside or outside the overlay boundary. In order to avoid issues with we advocate removal of this section.

(h) Vacant, including a lot or parcel:

(A) Created by any 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; 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 455.062, ORS 455.685, or housing types that meet the criteria in section (5) and approved through local building code review.

(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) Franchise utility easements

LOC Comment: Franchise utility easements also need to be included, as they are not always incorporated into the public utility easement.

(10) "Site plan" means a site or development plan that is drawn accurately to scale and include but are not limited to the following existing and proposed information:

(a) All property lines with dimensions and total lot 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.

(11) "Siting standards" means standards regulating placement of structures on a lot or parcel including setbacks, height, bulk, scale, and lot coverage. Siting standards include, but are not limited to, standards that regulate perimeter setbacks, dimensions, bulk, scale, coverage, minimum and maximum parking requirements, utilities, and public facilities.

LOC Comment: This is a similar but oddly different definition from the siting standard definition found in Division 46. We advise revising the definition of siting standard in division 47 to match division 46.

(12) "Traffic impact analysis" means a report prepared by a professional engineer that analyzes existing and future roadway conditions.

(13) "Usable outdoor space" means one of the following:

- (a) Outdoor recreation area surfaced with lawn, groundcover, gravel, or hard surface. The area must be 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.

Statutory/Other Authority: ORS 197A.408 Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

ADOPT: 660-047-0020 RULE SUMMARY:

This rule creates the local government review process for the development of Oregon Homes Lots.

CHANGES TO RULE: 660-047-0020 Local Government Review Process A local government must follow the review process as outlined below for an Oregon Homes Development proposed on an Oregon Homes Lot.

(1) Local governments must issue a land use 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.

LOC Comment: This section continues to cause issues, as many jurisdictions do not require a land use decision for middle housing. And this gets to a core issue with this new program, that a land use decision of some kind has to be issued in a case where just using the local zoning would not require that step. This adds process and barriers to development.

Additionally, there is a problem with the bill's statutory language that call for "the Land Conservation and Development Commission [to] adopt rules requiring local governments to issue a land use decision [approving an Oregon Home]". While we support using a ministerial, non-discretionary process as the rules propose, this is not prescribed by HB 2258 and LCDC cannot adopt rules that directly conflict with existing statute. The proposed rules specify that "this process...shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment." ORS 197.015 (10) defines a land use decision as one that "(b) Does not include a decision of a local government: (A) That is made under land use standards that do not require interpretation or the exercise of policy or legal judgment; (B) That approves or denies a building permit issued under clear and objective land use standards".

- (3) Local governments shall review applications for Oregon Homes ~~Development~~ on an Oregon Homes Lot through a completeness check, being no more rigorous than a ministerial review. Administration of this review shall only be to ensure compliance with standards provided in OAR 660-047-0020 through OAR 660-047-0050 and shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment.

LOC Comment: The turn of phrase “Oregon Homes Development” is not used in other places throughout the rules, we would suggest the removal of the word “development” to make it clearer that it is not referencing something new.

- (3) A local government shall deem an application for an Oregon Homes Development complete when the applicant provides the following information to the local government:

(a) Site plan and exhibits that address requirements provided in 660-047-0010, 660-047-0030, 660-047-0040, and 660-047-0050;

(b) Building plans that are:

(A) Approved by the Building Codes Division as meeting applicable building code standards; or

~~(B) Building plans that meet the requirements of an Oregon Homes Development provided in OAR 660-047-0010 (5); and~~

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

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

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

- (6) A local government shall not require a public notice or hearing in reviewing or approving an application for Oregon Homes Development.

- (7) Nothing in this section precludes a local government from applying locally administered public facilities plans, 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 order in which a local government applies these locally administered standards or plans during the application or review period is determined by the local government at their discretion. A local government shall not establish public facilities plans, final engineering plans, or

traffic impact analysis requirements uniquely for an Oregon Homes Development that exceeds the process applied to all other residential development of the same type.

(8) A local government may charge applications a review fee compatible to similar development applications.

(9) A local government shall deny an Oregon Homes Development application if the application 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 660-047-0030 through OAR 660-047-0050.

(10) 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.

Statutory/Other Authority: ORS 197A.408 Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

RULE SUMMARY: This rule establishes a set of design standards for an Oregon Homes Lot including entry orientation, garages and driveways, and waste storage facilities.

CHANGES TO RULE: 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 may apply only the following design standards outlined in this section in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot:

LOC Comment: Many of these standards would be better governed within building plan review if there is a true intent to create streamlining. Any standard adopted by DLCD should not apply to the building approved by BCD, it should only apply to lot specific conditions. Rules should be adopted by BCD to govern maximum floor area (total, not a ratio), maximum height, maximum garage width (or some relationship of the garage to the dwelling unit width), and a “front door” or porch that can be oriented to a street. These can all be verified and measured independent of any specific lot, enabling that plan to be utilized on any qualifying Oregon Homes Lot, subject to the siting requirements that are described in section 0040. We agree that many are essential safety aspects but they are fundamentally part of building plan review not land use review.

~~(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.~~

LOC Comment: Many of these standards would be better governed within building plan review if there is a true intent to create streamlining. Any standard adopted by DLCD should not apply to the building approved by BCD, it should only apply to lot specific conditions. Rules should be adopted by BCD to govern maximum floor area (total, not a ratio), maximum height, maximum garage width (or some relationship of the garage to the dwelling unit width), and a “front door” or porch that can be oriented to a street. These can all be verified and measured independent of any specific lot, enabling that plan to be utilized on any qualifying Oregon Homes Lot, subject to the siting requirements that are described in section 0040. We agree that many are essential safety aspects, but they are fundamentally part of building plan review not land use review.

~~(2) Garages, carports, or on-site parking or vehicle maneuvering areas are not required, in cities over 25,000. In jurisdictions under 25,000 the city may require onsite parking of no more than one space per unit. However, 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:

LOC Comment: This is a statewide program, it is unreasonable to prohibit small jurisdictions that lack the public infrastructure, both on-street parking and public transportation, from requiring on-site parking. There is no requirement legislatively that this program create a single approach statewide with no variation to account for local infrastructure and needs.

- (a) Accessible and adaptable units;
- (b) Lots that receive vehicular access from an alley; and
- (c) Off-street parking areas that are separated from the street lot line by a dwelling.

~~(3)~~ Storage facilities for trash and recycling receptacles 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 4 feet in height, except as specified in subsection (c) and located no more than 3 feet from the storage facility.
- (b) The storage facility must be separated from the street lot line by at least 5 feet.
- (c) For lot lines abutting residential properties, the storage facility must either be setback from the lot line by at least 5 feet, or the screen facing the lot line must be at least 6 feet in height.

LOC Comment: The trash storage section further emphasizes why this kind of single standard statewide program doesn't work. We appreciate the effort to allow waste collectors access to these homes easily. However, this requirement goes above and beyond what many jurisdictions require for some types of development. We aren't requesting this section's removal, because we do have to address waste collection in these rules, however it will increase costs unnecessarily for developers in some jurisdictions. Alternatively, include "solid waste collection" as a type of public facility that is subject to independent review outside of these rules.

~~(4)~~ A local government shall approve an Oregon Homes Development application if the proposed site plan varies not more than 10 percent from the numerical design standards described in this section.

Statutory/Other Authority: ORS 197A.408 Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

ADOPT: 660-047-0040 RULE SUMMARY: This rule establishes a set of siting standards for an Oregon Homes Lot including setbacks, density, and required outdoor areas.

CHANGES TO RULE: 660-047-0040 Siting Standards 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. A local government may apply only the following siting standards in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot as outlined in this section. An Oregon Homes development must:

(1) Provide a setback of 5 feet on the sides and back and 15 feet on the front of the building or the distance required for a proposed or existing utility easement or franchise utility easement or local ordinance setback whichever is less. For buildings greater than 35 feet in building height, the setbacks must be 10 feet on all sides non-street front sides. For garages the setback must be 20 feet if facing the street. Building height is defined in OAR 660-047-0010.

LOC Comment: We understand the desire to standardize setbacks. However, 5 feet on all sides will rarely be what is implemented on the ground, front setbacks are set higher due to public utility easements or fire access, so in most cases the exception, “or the distance required for a proposed or existing utility easement,” would be the rule, rendering the standardization moot. We suggest language to create a clearer, more viable standard, based off common front setbacks used by jurisdictions, while allowing for variation that unlocks more buildable area on parcels where the front set back doesn’t need to be as high.

There needs to be a separate setback requirement for garages. The reasoning isn’t one of aesthetics, it’s one of safety. Larger setbacks are needed for garages both to ensure sidewalk accessibility and pedestrian visibility and safety. Cities require garage setbacks anywhere from 20 ft to 25 ft to account for line of sight and pedestrian safety, we have proposed 20 ft as it is on the smaller end but still allows of increased line of site.

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

(3) Provide outdoor area that is beyond lot area counted towards setbacks comprised of at least 15 percent of the gross site area 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 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;
 - (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.

(4) A local government shall approve an Oregon Homes Development application if the proposed site plan varies not more than 10 percent from the setbacks or ~~outdoor area characteristics~~ numerical requirements within this section.

LOC Comment: Many of the things in this section are not defined numerically, presenting a challenge to a 10% variance. The cleanest solution is to clarify that variances of 10% only apply to numerically defined requirements, as one cannot issue a 10% variance on a characteristic.

Statutory/Other Authority: ORS 197A.408 Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

ADOPT: 660-047-0050 RULE SUMMARY: This rule establishes standards to guide the preservation, replanting, or replacement of trees on Oregon Home Lots.

CHANGES TO RULE: 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.

LOC Comment: This section originates in the legislation and cannot be changed, however it once again highlights the issue with creating a statewide system in a state so diverse. Many cities do not have tree codes or have very minimal regulations, so this places a new burden in fact on development that comes out of this program, an additional cost for developers. In jurisdictions where the Oregon Homes code is more restrictive than the local code this will require a Measure 56 notice, which will require significant staff time and accrue significant cost across jurisdictions.

(1) Approval of an Oregon Homes 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 outlined in this section 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) 12 inches or more DBH.
- (3) If all of the criteria listed in OAR 660-047-0050
 - (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;
 - 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

From: [CARPENTER Sean * DLCD](#)
To: [CAUDEL Ingrid * DLCD](#)
Subject: Comment Submission: MHOR Homes Phase One
Date: Thursday, July 30, 2026 11:07:49 AM

City of Millersberg

To view the PDF of this rulemaking comment, please visit the [SharePoint Library here](#).

Name: Matt Straite

Email: matt,straite@millersburgoregon.gov

Rule: MHOR Homes Phase One

Organization or affiliation (optional): City of Millersburg

Comment: Commissioner Skaar asked for a Magic Key solution. How about just require cities to adopt pre-approved plans, period. No zoning, no complex rules. Yes, they would still have to comply with local rules, but clearly not design standards, which seems to have been the intent of the Legislature. Local setbacks would apply still, but that's not much of a restriction. Also, I understand the legislation specifically stated the "Land Use Decision" text, but that does not mean the DLCD cannot clarify that in the rules. Just leaving as its written is to dangerous. It clearly says we have to do Land Use actions for homes if this is left. The DLCD telling us we don't have to is on consolation when the text is very, very clear. If the text is left, my City will absolutely require a full Land Use review of every Oregon Homes home regardless of direction from the DLCD. That's what the text says to do. This must be addressed/clarified in the text, not on a promice.

From: [CARPENTER Sean * DLCD](#)
To: [CAUDEL Ingrid * DLCD](#)
Subject: Comment Submission: MHOR Homes Phase One
Date: Wednesday, July 29, 2026 6:22:36 PM

City of Newport

To view the PDF of this rulemaking comment, please visit the [SharePoint Library here](#).

Name: Jan Kaplan

Email: j.kaplan@newportoregon.gov

Rule: MHOR Homes Phase One

Organization or affiliation (optional): City of Newport

Comment: Submitted by: Jan Kaplan, Mayor, City of Newport I support the League of Oregon Cities' position. Newport is committed to increasing housing production and improving the development process, but successful reforms must be practical, properly funded, and responsive to local conditions. Some of the proposed changes may result in unintended consequences. Robust local city/county representation is necessary to foresee them. I note that there does not appear to be representation from the Oregon coast. Cities are partners and must be treated as such: Top-down policies can unintentionally work against the goal of producing more housing when they do not account for the realities of implementation. Oregon communities differ significantly in staffing, infrastructure, geography, natural hazards, transportation systems, and access to technical expertise. A requirement that may be manageable for a large metropolitan government can overwhelm a smaller city with limited planning, engineering, and legal capacity. Analyze the potential burden on local resources prior to implementation: Frequent or overly prescriptive state mandates also require cities to repeatedly revise codes, retrain employees, establish new procedures, and explain changing requirements to builders. That work consumes the same limited staff time needed to review applications, resolve problems with developers, and move housing projects forward. Uniform standards may also conflict with local utility, emergency-access, transportation, or environmental requirements, creating uncertainty and additional review rather than genuine streamlining. Identify the support needed locally prior to implementation: I support strong collaboration between the state, cities, developers, and housing advocates to identify the actual causes of delay and design reforms that can be translated into effective local action. The state's housing goals are more likely to succeed when cities receive clear guidance, adequate funding and technical assistance, reasonable implementation time, and sufficient flexibility to address local conditions. The objective should be not simply to adopt statewide policies, but to ensure those policies result in housing that can be approved, serviced, financed, and built.



City of Oregon City

Via email and Regular mail

July 31, 2026

Chair Allen Lazo
Land Conservation and Development Commission
Attn: Ingrid Caudel, Rulemaking Coordinator
635 Capitol St., Ste. 150
Salem, OR 97301

housing.dlcd@dlcd.oregon.gov

Re: Comments on Proposed Rulemaking – OAR Chapter 660, Divisions 46 and 47 (Middle Housing Amendments and Oregon Homes Program), Notice Filed 06/30/2026

Dear Chair Lazo and Members of the Commission:

The City of Oregon City appreciates the opportunity to comment on the proposed amendments to OAR chapter 660, division 46, and the proposed adoption of division 47, establishing the Oregon Homes program. Oregon City supports the Legislature's goal of expanding housing production and housing choice, and we are actively implementing related state housing mandates through our own Middle Housing program and our current Housing Capacity Analysis. We submit these comments as a jurisdiction working to implement this framework in good faith, and we offer them in that spirit.

Oregon City has also reviewed the comments submitted by the League of Oregon Cities (LOC) and shares a number of the League's concerns, particularly regarding the eligibility carve-out at proposed OAR 660-047-0010(8)(g)(D) and the additional building-plan qualification pathway at OAR 660-047-0010(7)(e). We address both below, along with several additional technical and structural concerns specific to how this new program interacts with the existing Middle Housing rules in division 46, and to the readiness of the current rule text for adoption.

I. The Proposed Rules Are Not Yet Ready for Adoption

Oregon City recommends the Commission delay final action on this rulemaking until the issues below are resolved and the rule text is reposted for an additional comment period. These are not disagreements about policy direction; they are unresolved structural and technical problems that will directly affect whether local planning and building staff can apply these rules consistently and predictably.

A. The relationship between division 46 (Middle Housing) and division 47 (Oregon Homes) is undefined

Many building types eligible under the new Oregon Homes program in division 47 — duplexes, triplexes, quadplexes, cottage clusters, and townhouses — are the same building types already regulated under the Middle Housing rules in division 46. Nothing in either division states which set

of standards governs when a lot and a proposed development qualify under both programs. This is not a hypothetical overlap; it will be the typical case in most cities.

This gap has immediate, practical consequences. As one example, division 46 ties Middle Housing setbacks to whatever a jurisdiction already applies to detached single-family homes in the same zone (OAR 660-046-0120(3), 660-046-0220(3)(d)), while division 47 imposes a flat 5-foot or 10-foot setback regardless of the underlying zone (OAR 660-047-0040(1)). The same duplex, on the same lot, could be subject to two different and non-reconcilable setback standards depending solely on which program the applicant elects to invoke, with no adopted hierarchy or election-of-remedies provision to guide either the applicant or reviewing staff.

Relatedly, division 47 requires local governments to issue a land use decision for an Oregon Homes Development (OAR 660-047-0020(1)), while many jurisdictions, including our own, do not require a discretionary land use decision for comparable Middle Housing types at all. As the League's comments note, this creates a real risk that the two programs will impose different procedural postures on the same building type on the same lot, depending only on which pathway an applicant selects.

Recommendation: Before adoption, the Commission should clarify which set of standards and procedures governs when a lot qualifies under both division 46 and division 47, whether through an explicit election-of-pathway provision or a stated priority between the two divisions, with objective criteria for determining which applies.

B. The current rule text contains unresolved drafting defects that go beyond typographical error

The proposed text of division 46 in the current notice contains what appear to be unresolved tracked-change artifacts in operative, substantive text. Most significantly, the definition of “Medium City” at OAR 660-046-0020(11) currently reads a population threshold of “more than 10,02,500,” rather than a single clear number. Because whether a city is a Medium City or a Large City determines which set of obligations and timelines apply to it under both divisions, this is not a cosmetic problem. Similar unresolved artifacts appear in several other definitions in the same section, including the definitions of Duplex, Large City, Quadplex, and Triplex.

Recommendation: The Commission should direct DLCD to file a clean, proofread version of the complete rule text and reopen the comment period on that corrected version. Commenters and local governments alike cannot responsibly evaluate, or plan to implement, definitional language that is not itself clear on its face.

II. Specific Provisions Exceed the Scope of the Enabling Legislation

The following provisions in the current draft go beyond what House Bill 2258 (2025) authorizes on its face. We raise these as questions of statutory fit, not policy disagreement.

A. The partial-lot eligibility carve-out at OAR 660-047-0010(8)(g)(D)

HB 2258 excludes a lot or parcel from Oregon Homes Lot eligibility if it lies within an inventoried environmentally sensitive, open space, or natural hazard area (Section 2(3)(g)). The proposed rule instead allows a lot to qualify even when part of it falls within such an inventoried area, so long as the “developable area” is “wholly outside” the inventoried portion. This shifts the statutory exclusion from the parcel level to a sub-parcel level not reflected in the statutory text, and does so using an undefined administrative standard. As the League's comments also note, this creates a further practical problem in areas with uninventoried or imprecisely delineated resources,

particularly wetlands, where the “wholly outside” determination cannot reliably be made without the very level of review the ministerial process is designed to avoid.

Recommendation: Remove this subsection and apply the statutory exclusion at the parcel level as written. If the Commission wishes to preserve some flexibility here, that flexibility should be adopted through its own rulemaking record, paired with an objective, surveyable standard rather than an undefined “wholly outside” test.

B. The “third path” building-plan qualification at OAR 660-047-0010(7)(e)

HB 2258 describes two paths for building-plan approval through the Department of Consumer and Business Services: use of a state-approved typical plan, or DCBS review of a developer's own plan (Section 5). The proposed rule adds a third, undefined path allowing qualification through unspecified “local building code review.” Like the League, Oregon City does not read the legislative record as having authorized this third pathway, and as drafted it provides no definition of what that local review must entail, who conducts it, or what standard it applies. Without that definition, the pathway is unusable for staff and unpredictable for applicants.

Recommendation: Remove this pathway, or, at minimum, have DLCD define it with the same specificity as the DCBS-anchored pathways in the statute.

C. The rule's “zero discretion” standard is in tension with its own public facilities and traffic impact analysis carve-out

HB 2258 Section 2(5)(a) reserves public facilities and traffic impact analysis processes to local governments, which “may establish and implement” them, implying that some local judgment will continue to operate within this program. The proposed rule instead directs that the completeness check for an Oregon Homes application “shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment” (OAR 660-047-0020(2)), while a later subsection of the same rule (660-047-0020(7)) allows local governments to apply their own public facilities standards, final engineering review, and traffic impact analysis at their own discretion as to sequencing. Ordinary application of even the objective standards in this division, such as measuring DBH at the correct point on a tree or determining whether a proposed feature meets the definition of usable outdoor space, involves some degree of judgment. As written, staff have no clear rule-based basis for making these ordinary determinations.

Recommendation: Replace the current standard with language consistent with other ministerial Type I review processes, for example: “administered through the same completeness and compliance review used for other ministerial applications, applying only the objective standards in this division.” This preserves the intent of a non-discretionary approval standard without introducing an unworkable and internally inconsistent standard.

D. Sequencing between the mandatory land use approval and locally administered public facilities or traffic impact review is undefined

OAR 660-047-0020(1) requires local governments to issue an approving land use decision “notwithstanding” local comprehensive plans or regulations once the applicable division 47 standards are met, while OAR 660-047-0020(7) separately preserves local authority over public facilities and traffic impact analysis requirements. The rule does not address whether a local government may condition or delay issuance of associated permits on resolution of a legitimate public facilities or safety concern identified through that process, or whether the mandatory approval language overrides that ability.

Recommendation: Clarify that a local government may sequence issuance of building permits, as distinct from the underlying land use decision, on resolution of public facilities or traffic impact requirements identified under section (7), consistent with the authority the statute reserves to local governments in Section 2(5)(a).

III. Additional Technical Corrections

The following are narrower, largely non-controversial clarifications that would improve administrability without altering the Commission's underlying policy choices:

- “Buildable area” ambiguity in the size caps. OAR 660-047-0010(7)(b) is unclear as to whether the 2,200 square foot and 1,400 square foot size limitations refer to lot area or building floor area. This should be clarified in the rule text.
- Franchise utility easements. The setback exception in OAR 660-047-0040(1) for utility easements should be revised to expressly include franchise utility easements, which are not always captured under the term “public utility easement.”
- Provision-to-statute crosswalk. The current notice cites authority from multiple distinct enabling acts (HB 2138, HB 2258, and Oregon Laws 2025, chapter 330, sections 8 and 9) across a single rulemaking package. A provision-by-provision crosswalk identifying which statute authorizes each new or amended section would materially assist both public review and future implementation.

IV. Provisions Oregon City Supports

Oregon City wants to be clear that our concerns above are not a wholesale objection to this rulemaking, and we want to highlight several provisions we support as drafted:

- The lot eligibility criteria at OAR 660-047-0010(8)(a)-(c), (e), and (f) track the statute closely and provide an objective, mappable set of criteria that reduces review time for both applicants and staff.
- The tree preservation and mitigation standards at OAR 660-047-0050 are reasonable, consistent with the statute, and do not materially change existing local tree protection practices.
- The prohibition on additional public notice or hearing requirements at OAR 660-047-0020(6) is consistent with a genuinely ministerial review model, and we support it once the discretion standard discussed in Section II.C is corrected.
- The design standards at OAR 660-047-0030(1) through (3) governing entry orientation, parking area width, and trash enclosure screening are objective, measurable, and administrable as drafted, and represent a good model for the “clear and objective” standard the enabling legislation calls for.

V. Requested Actions

Oregon City respectfully requests that the Commission:

- Repost a corrected and proofread version of the complete rule text, with a new public comment period, before taking final action;

- Direct DLCD to clarify the relationship between division 46 and division 47 where a lot or development qualifies under both;
- Address the specific provisions identified in Section II above, each of which we believe exceeds the plain text of the enabling legislation;
- Provide a provision-by-provision statutory crosswalk identifying the specific enabling authority for each new or amended rule section; and
- Convene a working session with local government planning and building staff, not limited to Rulemaking Advisory Committee members, before finalizing this rulemaking, given that many of the issues raised here are the kind of interpretive questions that surface in day-to-day application review rather than in policy-level discussion.

We also want to flag for the Commission's consideration the broader concern raised in the League of Oregon Cities' comments regarding the "may" versus "shall" framing of the Commission's authority under Section 2(5) of HB 2258. We do not join the League's request that OAR 660-047-0020, -0030, and -0040 not be adopted in their entirety; Oregon City would prefer a workable, statewide ministerial pathway to the alternative of no pathway at all. We do, however, encourage the Commission to weigh that argument carefully, particularly with respect to whether any of the numeric siting and design standards in those sections should retain more local flexibility than the current draft provides.

Thank you for your consideration of these comments. We look forward to continuing to work with the Commission and DLCD staff toward a workable Oregon Homes program that expands housing production while remaining administrable for the local governments responsible for implementing it. Please feel free to contact our office with any questions.

Sincerely,



Kelly Hart
Community Development Director
City of Oregon City

From: [CARPENTER Sean * DLCD](#)
To: [CAUDEL Ingrid * DLCD](#)
Subject: Comment Submission: MHOR Homes Phase One
Date: Thursday, July 30, 2026 12:09:22 PM

City of Prineville

To view the PDF of this rulemaking comment, please visit the [SharePoint Library here](#).

Name: Joshua Smith

Email: jsmith@cityofprineville.com

Rule: MHOR Homes Phase One

Organization or affiliation (optional): City of Prineville

Comment: First, I think the State is trying to change a system that is functioning as intended. Planning Departments site the homes and Building Departments review the plans for compliance. At least in Prineville and Crook County this is a fairly simple process. Our SFH site plans are approved within a day and Building plans are approved in two to four weeks. If the intent is to shorten the building review then just create a repository of pre-approved building plans and let the local jurisdictions site the homes as they do now. There is no need or reason for any of this regulation. It seems as though the State is slowly trying to take complete control of local land use. The land use system in Oregon has a good foundational structure in the statewide planning goals. The regulating ORSs and OARs are a mess and the courts; including LUBA have wholly corrupted the original intent of the system. Now we are being bombarded with unnecessary studies, analyses and building targets. In my opinion the State code needs to be completely re-written with reasonable local control; that honors Goal 1, but moves at the speed of business. The current confusion is also a barrier.

From: [CARPENTER Sean * DLCD](#)
To: [CAUDEL Ingrid * DLCD](#)
Subject: Comment Submission: MHOR Homes Phase One
Date: Thursday, July 30, 2026 9:29:19 AM

City of Turner

To view the PDF of this rulemaking comment, please visit the [SharePoint Library here](#).

Name: Scott McClure

Email: smcclure@turneroregon.gov

Rule: MHOR Homes Phase One

Organization or affiliation (optional): City of Turner

Comment: We strongly support the letter and findings of the League of Oregon Cities that was sent to LCDC on July 29, 2026. At a basic level, one size fits all will not work. It defies common sense that a set of land use rules would work equally well in Heppner and Beaverton. It is also highly confusing to have one homebuilder subject to City rules and another follows different State standards. Cities and Counties take development very seriously and have developed comprehensive systems over the years to ensure that residential, commercial and industrial projects are built in an orderly fashion that takes into account both short and long-term needs. This requires coordination with multiple units of the local government and also coordination with outside agencies like utility providers. Unless the people that process land use and building applications are at the table, a mess will be created that could make development more difficult. On another note, the zeal to eliminate discretion and judgement will result in fewer housing units being developed. There are always situations where strict application of rules would deny a building permit, but discretion and flexibility provide the opportunity to get to a "yes". There may be cases where "judgement" leads to a permit denial. There are also cases where judgement leads to an approved permit. Simple closing comment - don't create inflexible rules that don't make sense on the ground and could lead to the opposite of what you are trying to accomplish.



MARION COUNTY BOARD OF COMMISSIONERS

Marion County Board of Commissioners

July 28, 2026

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

RE: Public Comment on Middle Housing Oregon Homes (MHOR) Phase One Rulemaking

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

The Marion County Board of Commissioners appreciates the opportunity to provide comments on the proposed Middle Housing Oregon Homes (MHOR) Phase One administrative rules.

Marion County recognizes that Oregon is facing a significant housing shortage, and we support thoughtful, innovative efforts to increase the supply of housing across our state. We appreciate DLCD's goal of creating a more predictable and efficient pathway for housing development. However, after reviewing the proposed rules, we have concerns that the Oregon Homes program, as currently drafted, may not achieve those objectives and could instead create additional complexity for local governments, applicants, and the development community.

Complexity Rather Than Streamlining

The stated intent of the Oregon Homes program is to simplify and expedite housing production through clear, objective standards and ministerial review. However, the proposed eligibility criteria for an "Oregon Homes Lot" and "Oregon Homes Development" establish an extensive list of prerequisites that applicants and local governments must evaluate before an application can even proceed. These requirements include lot size limitations, environmental constraints, development area calculations, housing type restrictions, building size caps, and other qualifying standards.

From a practical implementation standpoint, it is unclear that this process will actually be faster or easier than existing local review procedures.

Even under this program, local governments will still be required to conduct ministerial reviews of building plans for issues such as:

- Density
- Setbacks
- Building placement
- Infrastructure availability

- Building code compliance
- Other applicable development standards

Rather than replacing existing review processes, the proposal appears to create an additional layer of eligibility analysis before normal permit review can even begin.

Administrative Uncertainty

One of our primary concerns is how local governments are expected to administer this program over time.

The proposed rules do not clearly answer several important implementation questions, including:

- Will jurisdictions be expected to proactively identify and designate Oregon Homes Lots in advance?
- Or will applicants be required to demonstrate eligibility with every application?
- If eligibility is determined project-by-project, what documentation standards will apply?
- How should jurisdictions consistently track Oregon Homes Lots after approvals, redevelopment, or future property changes?

Without additional guidance, each jurisdiction may develop its own process, resulting in inconsistent implementation across Oregon and potentially reducing the certainty the program is intended to provide.

Housing Size Limitations

The proposed rules establish maximum dwelling sizes of:

- 2,200 square feet for single-family dwellings; and
- An average of 1,400 square feet for cottage clusters and multi-unit developments.

While the intent is clearly to encourage more attainable housing, these limitations raise practical concerns.

For example, most planners would generally envision cottage clusters averaging closer to 1,200 square feet or less. The proposed cap therefore may not meaningfully influence affordability for that housing type while simultaneously limiting flexibility for builders responding to local market demand. •

Housing affordability is driven by numerous factors, including land costs, infrastructure, labor, permitting timelines, financing, and material costs, and limiting unit size alone is unlikely to substantially reduce housing prices.

Existing Middle Housing Framework

Oregon has already undertaken significant reforms through its Middle Housing legislation.

Local governments have invested substantial time and resources updating comprehensive plans, development codes, permitting procedures, and public outreach to implement those requirements.



The proposed Oregon Homes program introduces an entirely new regulatory framework alongside those existing requirements. Instead of simplifying housing production, it risks creating two parallel systems that planners, builders, and applicants must navigate.

Recommendations

Marion County respectfully recommends that DLCD:

- Simplify the eligibility requirements for Oregon Homes developments so they are easier for applicants and local governments to administer.
- Provide clear guidance regarding how Oregon Homes Lots are to be identified, verified, and tracked over time.
- Ensure the program genuinely reduces permitting complexity rather than adding another regulatory layer.
- Evaluate whether portions of the proposed program can instead be incorporated into the existing Middle Housing framework rather than creating a separate process.
- Continue working closely with local planning professionals, who will ultimately be responsible for implementing these rules on a daily basis.

Conclusion

Marion County shares DLCD's goal of increasing housing production and expanding housing opportunities for Oregonians. We believe successful housing policy should reduce regulatory complexity, improve predictability, and provide clear implementation guidance for both applicants and local governments.

We appreciate the opportunity to comment and encourage DLCD to refine these proposed rules to ensure they achieve those shared objectives while preserving efficient local administration.

Sincerely,

2

Colm Willis
Chair

A handwritten signature in blue ink, appearing to read "Kevin Cameron".
Kevin Cameron
Commissioner

A handwritten signature in blue ink, appearing to read "Danielle Bethell".
Danielle Bethell
Commissioner

Dear Commissioners —

Jerry Lidz

I appreciated the careful attention you all gave to the rulemaking hearing this week. I think you grasp the concerns that local government officials have with the proposed rules, and my own comments have not changed very much. I still have two specific concerns and one more general concern about how the draft rules are evaluated.

-1- Many of the RAC members' concerns focused on setback standards. Most of the concerns were about public safety and adequate access for police, fire and ambulance. I have three additional concerns about the proposed setbacks.

(A) Another safety issue: Housing that's too close to the street limits visibility of traffic on the street for people backing out of a driveway.

(B) Neighborhood/aesthetic incompatibility: If current homes are set back 15-20 feet from the street, having a model home next door that's only five feet from the street will not only impair visibility but also generate resentment about "spoiling the neighborhood." Some of that is a typical response to new zoning and development styles, and a fair answer to much of that is "Tough!" I know the Middle Housing Rules may also produce the same reaction; the question is, How much do we gain from the developments authorized by the new rules? I think a state-mandated setback for model homes of "not more than 75% of the standard setback" would work. (One commenter also raised the concern that the rules might create a nonconforming use that would make the property harder to sell; I'm not qualified to opine on that.)

(D) [I'd use a C, but the program I'm using insists on translating it to a copyright symbol!].

Perhaps my greatest concern about the draft setback rules: What constitutes the "street" or "public way" or right-of-way to which the setback standards would apply varies greatly among cities and even within a city, depending on the terms accompanying the original dedication. That varies over a century or more of urban development and what uses were anticipated for the street. So, having a state-mandated standard will have quite different results in different cities and neighborhoods.

-2- The cottage cluster rules need attention.

(A) They're way too detailed, and that will make developers more reluctant to build them. I'm not sure the _requirements_ are too strict, but they (and the options) are very complex. That's especially true for the recreation areas & facilities.

(B) I think the proposed average size is far, far too large. Just two real cottages of 800 sq ft would allow a full-sized house. I don't think that's what people will want, and having one or two large and far more expensive houses would change the feel of the cluster for the worse.

-3- I hope that staff and commissioners are able to avoid a single-focus evaluation of the draft rules. In other words, including a standard (like deferring or partially deferring to local setbacks) may slightly reduce the number of housing units that will result, but that should not automatically lead to whatever would maximize the number of units.

Finally, I think the Commission should give itself an opportunity to revisit these rules once BCD produces the model home designs. It's been very difficult to envision placement on a lot or parcel without knowing more about what will be put on the lot.

Thank you for your hard work and thoughtful consideration of the draft rules.

Jerry Lidz (RAC member and former LCDC commissioner)

From: [Jonathan Tallman](#)
To: [JOHNSON Denise * DLCD](#); [DLCD Housing * DLCD](#); [STUCKMAYER Ethan * DLCD](#); [COUTINHO Becky * DLCD](#); [BATEMAN Brenda O * DLCD](#); [GREENE Kirstin * DLCD](#)
Subject: Fwd: Public Comment Period Extended for Middle Housing Oregon Homes Rulemaking
Date: Thursday, July 30, 2026 5:40:15 PM
Attachments: [Transparency Issue Letter October 7.pdf](#)

Some people who received this message don't often get email from jonathan@tallman.cx. [Learn why this is important](#)

Jonathan Tallman

Subject: Public Comment – Middle Housing Oregon Homes Rulemaking

Chair Lazo and Members of the Land Conservation and Development Commission,

My name is Jonathan Tallman. I am a Boardman landowner, business owner, and lifelong Oregon resident. Thank you for extending the public comment period. I believe that decision reflects an important principle: better public participation leads to better planning decisions.

Over the past year, I have spent countless hours participating in Oregon's land use process and currently have multiple cases pending before the Land Use Board of Appeals involving planning decisions made by my local government. I am **not** asking this Commission to decide those cases. Those issues properly belong before LUBA.

Instead, I offer my experience as an example of why the procedural safeguards discussed during your July 29 meeting are so important.

As early as **October 7, 2025**, I documented concerns that I was encouraged by City officials to attend planning meetings and participate, yet when I attended and attempted to speak, I was told I could not. I asked only for clarity, consistency, and transparency because meaningful public participation cannot exist when written invitations to participate differ from what occurs in practice. Those inconsistencies created confusion, undermined public trust, and ultimately contributed to disputes that are now being resolved through Oregon's land use appeal and DLCD processes. Attached below.

My experience has reinforced several lessons that I believe are relevant to this rulemaking.

When agencies clearly communicate public participation opportunities, build complete administrative records before making decisions, and remain within the authority granted by the Legislature, public confidence increases and disputes are less likely. When those safeguards break down, citizens often feel they have no choice but to seek review through LUBA. Strong statewide guidance can help local governments avoid those outcomes.

As you finalize these rules, I respectfully ask the Commission to continue emphasizing:

- Meaningful and clearly communicated public participation;
- Complete and transparent administrative records before significant planning decisions are made;
- Clear adherence to legislative authority and Oregon's land use statutes; and
- Planning processes that improve public trust and reduce unnecessary appeals.

My hope is that no Oregon landowner, business owner, or local government has to spend months or years in litigation simply because the planning process lacked transparency,

consistency, or a complete record. Strong procedural safeguards benefit everyone local governments, applicants, property owners, and the public.

Thank you for your consideration and for your commitment to strengthening Oregon's land use planning system.

Respectfully,

Jonathan Tallman
Boardman, Oregon

----- Forwarded message -----

From: **DLCD Housing** <DLCD_Housing@public.govdelivery.com>

Date: Thu, Jul 30, 2026 at 10:51 AM

Subject: Public Comment Period Extended for Middle Housing Oregon Homes Rulemaking

To: <jonathan@tallman.cx>

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From: [CARPENTER Sean * DLCD](#)
To: [CAUDEL Ingrid * DLCD](#)
Subject: Comment Submission: MHOR Homes Phase One
Date: Monday, August 3, 2026 2:53:13 PM

City of Rockaway Beach

To view the PDF of this rulemaking comment, please visit the [SharePoint Library here](#).

Name: Abram Tapia

Email: cityplanner@corb.us

Rule: MHOR Homes Phase One

Organization or affiliation (optional): City of Rockaway Beach

Comment: Dear Chair Allan Lazo, Thank you for your attention to the concerns of Rockaway Beach regarding the proposed rules implementing House Bill 2258. We appreciate your commitment to engaging with local governments and stakeholders throughout this process. The greatest concern the City of Rockaway Beach has with the proposed rules, and a concern we have not seen raised elsewhere, is the process for determining which lots are Oregon Homes Lots. From the rulemaking, it is not clear what the methodology will be for determining whether a lot meets the Oregon Homes Lot criteria, and it is not clear which entity will be responsible for making this determination. This is of concern for the City because, while adopted and effective, the 2018 Flood Insurance Rate Map (FIRM) is not part of the Comprehensive Plan; it is adopted through a local ordinance and the Flood Hazard Overlay Zone. This may be a unique quirk to our jurisdiction, but this gap is likely shared with other small jurisdictions. The Oregon Homes program excludes lots that are 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. The concern is that lots within the floodplain may be considered or determined to be eligible for Oregon Homes because the Special Flood Hazard Area (SFHA) is not mapped in our Comprehensive Plan, when it is the intent and design of the program for them not to consider lots in the floodplain as eligible. This could place the Oregon Homes Program in conflict with local compliance with the National Flood Insurance Program (NFIP) and open local Oregon Homes program decisions to regular appeal. While the language of this requirement comes from the Bill itself and is not subject to change through the rulemaking process, we are hopeful that the rulemaking process will clarify the determination process for Oregon Homes. Thank you for your time and consideration. Best Regards, Abram Tapia City Planner City of Rockaway Beach

August 3, 2026

City of Salem

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

Delivered Via E-Mail: housing.dlcd@dlcd.oregon.gov

RE: Comments on Draft Rules for Middle Housing Oregon Homes (MHOR) Phrase One

Dear Chair Lazo and Members of the Commission,

Thank you for the opportunity to provide comments on the draft rules for Middle Housing/Oregon Homes (MHOR) Phase One. City of Salem staff have been following the rulemaking process and applaud the Commission's decision at its July 29 meeting to provide more time to revise the draft rules so that they not only speed up and increase housing production but also work at the local level.

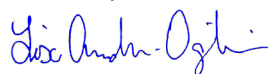
The City of Salem, like other communities across Oregon, is facing a housing crisis. The need for more housing is acute, and the City is working diligently to meet that need by implementing Salem's first Housing Production Plan as well as the many State housing bills and rules. While the City understands and appreciates the intent of HB 2258, the City of Salem has concerns about the draft rules that aim to implement the bill.

Specifically, the draft rules appear to expand the Oregon Homes program beyond State-approved building plans. During the 2025 legislative session, discussion of HB 2258 focused on creating a streamlined path for building plans that were approved at the State level. The draft rules introduce a different third path that essentially requires cities to approve any building plans – for up to 11 units – submitted by developers that meet the Oregon Homes criteria, even if they have not been reviewed and approved at the State level. These housing projects would be able bypass local zoning – both allowed uses and required standards – that were developed through extensive community planning processes.

This seems to be a significant deviation from what was discussed during the development and adoption of HB 2258. We recommend removing this third path from the draft rules.

Thank you for your consideration of these comments.

Sincerely,



Lisa Anderson-Ogilvie
Deputy Community Planning and Development Director & Planning Administrator



To: Land Conservation and Development Commission (LCDC)/DLCD

Oregon Fire Services

From: Oregon Fire Chiefs Association
Oregon Fire Marshals Association
Fire and EMS Chapter of the Special Districts Association of Oregon (SDAO)
Oregon Department of the State Fire Marshal

Date: August 1, 2026

Subject: Public comment on proposed Oregon Administrative Rules implementing the Oregon Homes Program established by House Bill 2258 (2025)

To whom it may concern,

The Oregon Fire Chief Association, the Oregon Fire Marshals Association, the Fire and EMS Chapter of the Special Districts Association of Oregon and the Oregon Department of State Fire Marshal, collectively representing Oregon's fire service, respectfully submit written comments to the proposed rulemaking regarding implementation of HB 2258 (2025). These comments reflect the fire service's concerns with the proposed rule and recommended language which supports the state's housing goals accord with essential fire protection requirements.

There are numerous potentially conflicting issues related to the authority of the Oregon State Fire Marshal, fire code officials, and the utilization of the statutory requirements set forth in the Oregon Fire Code. The proposed rules may create significant ambiguity in new developments with fire officials, planners, and developers. Any ambiguity affecting their authority directly impacts community safety and makes the development process more complex.

The fire service understands the critical need for available and affordable housing. As fires are currently burning uncontrolled across Oregon, we also need to be considerate of the significant impact of fire risk to Oregonians. A balanced approach is needed to provide available and affordable housing that is also *reasonably safe*. Victims of fire often face significant challenges including financial impacts, emotional effects of evacuation, losing sentimental items, and losing a sense of "home." New housing must be constructed in a way that is reasonably safe and resilient, especially in areas vulnerable to wildfire and urban conflagration.

Highlighted below are some of the issues raised by creating these siting standards. We urge you to minimize fire and life safety risk to Oregonians by evaluating the recommended language changes to the proposed rulemaking below. We believe this language change will help

eliminate potential confusion that fire and life safety requirements for new development, including fire apparatus access and firefighting water supply, continue to be applicable.

Areas of concern:

- The rules preserve some engineering and public facilities review but fail to expressly preserve independent fire code authority as outlined in Chapter 5 related to Fire Department Access and Water Supply. That ambiguity is likely to lead to inconsistent interpretation across jurisdictions and could invite challenges to local fire code officials or deputy state fire marshals when implementing Oregon Fire Code requirements for fire department access roads, hydrants, fire flow, and emergency access during the land use and planning process.
- Fire apparatus access roads are enforced under the Oregon Fire Code by the fire code officials. The proposed rules do not expressly preserve that authority of fire code officials enforce fire apparatus access, potentially leaving out the fire department in the land use and planning phase of a development.
- Some jurisdictions conduct Oregon Fire Code review separately from engineering review. These processes are distinct and should remain independently recognized.
- A developer may argue that because the rules limit review to the listed standards, a fire code official cannot require Oregon Fire Code provisions because they are not on the list.
- The rules preserve public facilities plans and final engineering plans, however, they never mention fire flow and water supply requirements of the Oregon Fire Code, despite their critical role in safe development.
- Only certain citing standards may be applied per Section 660-047-0040 which states "*A local government may apply only the following siting standards.*" The list of standards should include emergency vehicle provisions consistent with the Oregon Fire Code Chapter 5. A developer could argue that fire access is not an applicable siting standard.
- Section 660-047-0020 requires ministerial approval and limits review to objective standards. Many jurisdictions currently route developments through either the local fire agency or local deputy state fire marshal before land use approval. If a local planning official interprets these rules narrowly, fire review could be omitted until a building permit is issued which will create life safety problems related to subdivision layout, access roads, and hydrant locations which often cannot be fixed after plat approval.

Recommendations to consider adding to the rules related to fire code:

- Clarify that the Oregon Fire Code remains "*fully applicable*" at all stages of development review. This would substantially reduce ambiguity concerns while maintaining the housing objectives of the rule.
- Specifically preserve fire flow and water supply requirements of the Oregon Fire Code Appendix B, and OFC Appendix C, and any locally adopted fire flow standards (hydrant locations, sizing, spacing, etc.).
- Specifically preserve fire department access requirements in Oregon Fire Code and any locally adopted fire access standards.

- Affirm that fire department review of access and water supply must occur during land use and planning review (i.e., prior to the permit stage).

Additional issues for fire agencies:

- The minimum five-foot setback invites safety issues, including limited firefighter access for fire attack and rescue (including placing ladders at safe angles), increased fire exposure hazards, and utility conflicts.
- The rules allow for lots as small as 1,500 square feet, multiple housing types, up to 11-unit multifamily buildings, expedited approval. If Oregon Fire Code authority is not clearly preserved, this may result in insufficient hydrants, dead end access roads, inadequate turning radius, limited aerial apparatus access, and blocked emergency access.

Wildfire specific concerns:

- Five-foot setbacks and increased density increase structure-to-structure ignition risk and make compliance with the “five-foot non-combustible space zone” more difficult.
- In the proposed OAR, the tree standards prohibit removal of heritage trees, trees 20 inches diameter at breast height or larger, and require mitigation for removal of protected trees. In some circumstances, a tree that is protected under local defensible space code adoption may later require crown separation, ladder fuel removal, removal due to proximity to structures and the rule does not acknowledge this possibility. Although most defensible space treatments do not require removal of large healthy trees, there are circumstances where vegetation adjacent to structures must be modified for life safety.
- The rule limits local governments to certain design standards and if a jurisdiction later adopts the defensible space code, intended to support wildfire resilience, applicants could argue that those standards are preempted because only the listed design and siting standards may be applied.

Suggested language:

“Nothing in this OAR limits or supersedes the authority of the State Fire Marshal or fire code official to administer and enforce the Oregon Fire Code and the Oregon Defensible Space Model Code as defined in statute; including but not limited to requirements for fire apparatus access roads, emergency vehicle access, fire hydrants, fire flow, water supply, fire department connections, fire lanes, emergency access easements, vegetation management or other fire protection infrastructure or wildfire mitigation requirements adopted pursuant to state law.”

We appreciate the work DLCD is doing to improve housing availability. We value the partnership between the Oregon fire service and the land use planning community. By incorporating the recommended clarifying language, the rules can support housing goals, preserve critical fire and life safety protections for Oregonians, and streamline the plan review process. We respectfully request the adoption of changes to preserve the authority of the Oregon Fire Code and the Oregon Defensible Space Model Code and any amendments thereto.

Association of Oregon Counties

Date:	July 28, 2026
To:	Chair Lazo, Members of the Land Conservation and Development Commission
From:	Association of Oregon Counties Legislative Affairs Manager Branden Pursinger
Subject:	Proposed DLCD Division 47 Rules: Oregon Homes Program

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. AOC appreciates the opportunity to participate in the rulemaking process and provide comments today about our ongoing concerns with the draft Oregon Homes rules.

The Oregon Homes program was established through the passage of HB 2258 during the 2025 session as an attempt to increase the speed in which housing developments occur in Oregon. The rules aim to do this by allowing a developer to take a preapproved plan and have the local jurisdiction issue a permit for land use and building code. AOC staff as well as two county planning directors were members of the Rules Advisory Committee (RAC) and we understand and appreciate the efforts to spur housing development. Many local jurisdictions (city and county) have submitted concerns regarding the draft rules; however, the issue we would like to raise today is one of process.

House Bill 2258 can be found in ORS 197A.408 and it lays out a series of side boards that must be met for a parcel to fall under this program. These can be found in the proposed Oregon Home rules as follows:

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

- (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;*
- (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 any 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 plan approved under Department of Consumer and Business Services pursuant to ORS 455.062, ORS 455.685, or housing types that meet the criteria in section (5) and approved through local building code review.¹*

The Proposed Rules also lay out the limitations on the parcels themselves:

(7) Oregon Homes Development means a residential development type that would be approved to be placed on an Oregon Homes Lot include:

- (a) Attached or detached housing, including accessory dwelling units or prefabricated or modular housing.*
- (b) Types with a buildable area of:*
 - a. A size of 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 1,400 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 plans have been approved by Department of Consumer and Business Services pursuant to ORS 455.062, ORS 455.685, or housing types that meet the criteria as provided in subsections (a)-(d) and approved through local building code review.²*

Outside of subsections (7) and (8) of proposed division 47 rule 0010, the provisions of this program turn to discretionary on the part of LCDC. ORS 197A.408 (5) states “the

¹ Proposed OAR 660-047-0030

² Proposed OAR 660-047-0030

commission **may** specify for the approved residential development types allowed under this section.” the applicable design standards, scope of design review, use of material, method of construction, allowable variations, minimum or maximum setbacks, parking requirements, floor-to-area ratios or minimum dwelling units per acre. The statute gives LCDC the option to decide if they wish to regulate these siting standards. The proposed rules before you for consideration include drafted rules pertaining to all of these optional topics and turn the “may” into “shall”.

Setback:

- (1) Provide a setback of 5 feet on all sides of the building or the distance required for a proposed or existing utility easement. For buildings greater than 35 feet in building height, the setbacks must be 10 feet on all sides. Building height is defined in OAR 660-047-0010.³*

Design Standards:

- (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.⁴*

Numerous times during the RAC process, local government representatives asked if LCDC had given direction to the agency that these aspects of the rules should be drafted, DLCD staff failed to give an answer at each prompting.

Numerous times local practitioners gave feedback on the proposed direction the agency staff were heading toward; however no feedback was taken on these “optional” rules.

ONE SIZE DOES NOT FIT ALL:

Setbacks and building lot coverage have been created after lengthy conversations with our public works offices, emergency service personnel and, when inside the urban growth boundary, our cities. These rules as written assume those standards do not matter and instead should be a set standard universally accepted.

³ Proposed rule 660-047-0020

⁴ Proposed OAR 660-047-0030

(2) calls for “garages, carports, or on-site parking or vehicle maneuvering areas are not required. However, 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.”⁵

Seeing as this is a statewide program, it is unreasonable to prohibit counties that lack the public infrastructure to then also lack on-street parking.

(4) a local government shall approve an Oregon Homes Development application if the proposed site plan varies not more than 10 percent from the setbacks or outdoor area characteristics requirements within this section.⁶

The issue here is the lack of numerical thresholds for the features found in sub (3) - sports courts, swimming pools, fitness courses, etc. Local jurisdictions are unaware based on the proposed rules what the numerical value is of a children’s play structure to know what 10% would entail.

Cost of Compliance Statement:

The Cost of Compliance Statement provided to LCDC for proposed rules under division 47 calls for the “*economic impact to local governments*” to be “*marginal and largely accounted for in regular work planning.*”⁷ Local Governments will need to update their codes, update their comprehensive plans to account for all areas listed in ORS 197A.408, they will most likely need to map their county to better understand the areas an Oregon Homes development could be placed on, and measure 56 notices will need to be issued. To say the expense is marginal and accounted for is a gross misrepresentation by the department.

In conclusion:

AOC strongly encourages LCDC to adopt the required portions of the rules to be in compliance with ORS 197A.408 and direct DLCD to bring RAC members together to draft clear and objective standards on the optional rules LCDC would like - found in subsection (5) of that statute.

Thank you for your consideration,

⁵ Proposed OAR 660-047-0040

⁶ *Ibid.*

⁷ Notice of Proposed Rulemaking Chapter 660, division 46; creation of division 47, Oregon Homes, page 4



City of Sherwood

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Kristen Switzer

August 5, 2026

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

Re: Oregon Homes Draft Rules

Chair Lazo, Members of the Commission,

The City of Sherwood supports the goal of producing more housing and appreciates the work invested in the Oregon Homes program. Sherwood staff participated in the rulemaking process through an appointment on the RAC, dedicating valuable local government staff time to help create a workable statewide program.

We respectfully ask the Commission to revise the rules in three areas: preserve the Legislature's use of "may"; remove the locally approved third pathway; and allow local standards to continue addressing legitimate differences in infrastructure, public safety, and community conditions.

1. "May" must not become "shall"

HB 2258 uses "may" in key provisions. That word gives LCDC discretion; it does not direct the Commission to preempt every local siting and design standard that could fall within the rulemaking authority. The draft rules repeatedly convert that discretion into "shall" by requiring local governments to approve development under a single state-created framework and limiting them to only the standards listed in the rules.

That change is consequential. It replaces a legislative authorization with a statewide mandate. During the legislative process, cities understood that the Commission would decide whether and to what extent statewide standards were necessary. The current draft effectively removes that policy choice from the Commission and treats the broadest possible exercise of authority as required. The Commission should retain the Legislature's deliberate distinction between permission and command. At minimum, OAR 660-047-0020, 660-047-0030, and 660-047-0040 should be revised so that local governments may use locally adopted setbacks, height standards, density standards, and parking requirements.

2. The rules should remove the “third pathway”

The legislation identifies two pathways for building plan approval through the Building Codes Division: a developer may select a BCD pre-approved plan or submit a plan to BCD for approval. Those pathways connect the Oregon Homes benefits to a state-reviewed, reusable building plan which was the central streamlining concept presented by the legislation.

The draft rules add a third pathway under which a developer may obtain local building-code approval and still receive the full land-use benefits of the Oregon Homes program within that jurisdiction. This is not a minor administrative option. It extends statewide displacement of local zoning standards to plans that have not gone through the state pre-approval process and may be used only once or only locally.

The third pathway therefore separates the program’s extraordinary land-use preemption from the state-level standardization that was offered as its justification. Sherwood asks the Commission to remove this pathway unless and until the Legislature expressly authorizes it.

3. Oregon is not a one-size-fits-all state

Oregon’s 241 cities vary enormously in size, geography, climate, transportation choices, infrastructure capacity, service providers, and development patterns. A standard that may function in a large city with frequent transit, continuous sidewalks, robust utility systems may be unsafe, costly, or impractical in a smaller or rapidly growing community. Local standards are not arbitrary obstacles. They are the product of coordination among local planners, engineers, fire districts, utility providers, waste haulers, and residents.

As an example, the proposed rules do not allow fire departments to require plan changes during land-use review when site-specific access standards are not met. Aerial access for taller buildings may need to be provided on-site while these rules would require a local government to approve a structure without requiring that space. Similarly, solid-waste providers may need adequate access and collection space; excluding their operational standards can require specialized equipment, increase service costs, or leave residents with an impractical on-site system.

The rules may also create homes that are nonconforming the moment they are built because their placement does not satisfy local zoning. Future owners could face added restrictions when maintaining, expanding, rebuilding, financing, or insuring those homes. Streamlining should reduce uncertainty for builders and homeowners now and in the future, not create a second regulatory system whose long-term consequences are unclear.

Finally, the rules should clearly preserve a city’s ability to provide voluntary public notice. Sherwood is committed to transparency and communication with its residents. Notice

need not delay a ministerial decision, but the state should not prevent a local government from informing nearby residents about development occurring in their community.

A uniform statewide approach also risks frustrating the developers it is intended to assist. An applicant may appear to meet published Oregon Homes standards but later learn that fire access, utility easements, final engineering, or service-provider requirements necessitate major revisions. If exceptions become the rule, the process will be less predictable, not more. A better framework sets clear statewide objectives while allowing local governments to address site-specific health, safety, and infrastructure conditions through already adopted clear and objective standards.

Requested action

The City of Sherwood respectfully requests that LCDC:

- Do not turn “may” into “shall”. Remove a one-size fits all approach by allowing local jurisdictions to maintain local setback, height, density, and parking standards
- Remove the locally approved third pathway
- Allow denial of an application when the proposed Oregon Home and Oregon Lot combination does not meet fire code
- Clarify that local governments may provide voluntary public notice without converting the review into a discretionary or hearing-based process.

We urge LCDC to adopt a framework that is faithful to the statute, predictable for developers, protective of future residents, and respectful of local responsibility.

Thank you for your consideration.



Tim Rosener
Mayor
City of Sherwood



League of Oregon Cities and Association of Oregon Counties
August 4, 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.

AOC and LOC appreciate not only the opportunity to participate in the rulemaking process, the ability to give comments during the recent Land Conservation and Development Commission (LCDC) Meeting, but also, per LCDC request, provide suggested draft rules and comments regarding the Oregon Homes program.

The Oregon Homes program was established through the passage of HB 2258 during the 2025 session as an attempt to increase the speed in which housing developments occur in Oregon. The rules aim to do this by allowing a developer to take a preapproved plan and have the local jurisdiction issue a permit for land use and building code. AOC and LOC staff, as well as multiple local practitioners from cities and counties across the state, are members of the Rules Advisory Committee (RAC) and we understand and appreciate the efforts to spur housing development. Many local jurisdictions have submitted concerns with the proposed draft rules created by the Department of Land Conservation and Development, made available at the July 29th LCDC meeting. AOC and LOC have crafted proposed rules on subsequent pages for this program that are both implementable by our local jurisdictions Planning Departments, as well as ones Developers have reviewed and have indicated will work for them if they wish to take advantage of this program.

Methodology

Legislative intent is established by supporting materials entered into the legislative

record by the sponsor or associated parties, speeches by the sponsor or carrier, and other written materials publicly available in the legislative record.

LOC and AOC staff have taken the time to go through every presentation, supplementary material provided by the sponsor, and floor speech for House Bill 2258. Using these proposed DLCD staff rules as the foundation, alterations were made to bring in line with that legislative record.

Second, to ensure comprehension in the program's requirements among developers and permit processors, development standards (setbacks, design standards, definitions, etc.) were mirrored with existing statutory language and existing DLCD Rules. Where these changes were made, a comment appears in the text to show the existing division rule or statute pulled from.

"The Third Path"

These proposed alternative rules eliminate what is referred to in RAC meetings and by the Commission as "The Third Path" or "The Third Option". There was not a single quote or presentation given on HB 2258 to support the "third path," nor did it establish a precedent for LCDC to adopt a single, unvarying statewide standard. Executive Branch agencies have the authority to interpret and implement the policy established by the legislature, but creating new policies outside of the authority given by the legislature is not within their authority.

To further support this statement above, you will find quotes directly pulled from the presentations in the House Committee on Housing and Homelessness, as well as the floor speech given by Housing Chairs (and floor carriers) Representative Marsh and Senator Pham. Additionally, links to all the referenced materials are provided so readers may verify they are not pulled out of context.

Pulled directly from a presentation given by the Governor's office on [April 2, 2025](#) to the House Committee on Housing and Homelessness. There is no mention of a local option. Only options through the Building Codes Division (BCD) are mentioned. The local path is also not mentioned in the bill (HB 2258) or the final enrolled statute (ORS 197A.408). According to [the April 2 presentation](#), Oregon Homes building plans are:

A series of building plans for single units, duplexes, triplexes, quadplexes, townhomes, cottage clusters, and apartments 12 units or less developed by the Building Code Division.

And additionally:

Developers and housing providers may submit building plans to BCD for review and approval as part of the existing Master Plan Program created by ORS

455.685. If utilizing the Oregon Homes process, developers and housing providers can get their plans pre-approved by BCD to be used statewide for sites eligible for Oregon Homes. Building plans approved as part of the Oregon Homes process through the Master Plan Program would be subject to the same land use and design standards as the Oregon Homes building plans.

In fact, the “third path” specifically goes against state intent, which is:

Reduce costs and lengthy reviews for building plans approved by the state allowing more housing to be built quickly.

A local path does not reduce the lengthy review, it enables it. While some of our members may oppose this whole cloth, others, especially smaller jurisdictions with less resources are excited to have the option. Getting qualified building plan reviewers is difficult for small rural jurisdictions, so a reviewed plan by the Building Code Division represents something that will help ease the burden on limited local resources.

Neither the floor speech by [Representative Marsh](#) nor the speech by [Senator Pham](#) mentioned the “third path” option, only the paths through BCD.

Single Statewide Standard?

During the [presentation on March 17th](#), it was stated that the Oregon Homes program and process was intended to “simplify and streamline” the land use process, it did not call for the removal of all variation. There is, in the process outlined in our proposed alternative rules, a high level of simplification. We are proposing almost no design review, no glazing requirements, no trim depths, no landscaping requirements, nor any other additional reviews. There is only land use review that is needed for community and pedestrian safety, public facilities, and fire code. Within that land use review, there is some small level of variation to give developers better options.

It was never mentioned during the legislative process on HB 2258 that it must be a single statewide standard. The closest mention to this was in the [April 2nd presentation](#), where it was stated that DLCD should create standards.

Create land use and design standards to be applied to the building plans as developed by the Department of Land Conservation and Development.

During the [June 18th floor speech from Representative Marsh](#) it was stated the bill intended to set “basic standard” and mentions “appropriate minimum and maximums” for things like setbacks, which is what LOC and AOC have strived for in the proposed alternative rules. Additionally, Representative Marsh added that the goal of HB 2258 was for “clarity and predictability,” which will not occur if you create an expected

standard of 5ft with an exception for public utilities and most lots requiring said exception.

[Senator Pham](#)'s carry speech on June 23rd is very similar in tone and expectation of the program.

Environmental Hazard Zone Partial Eligibility?

When speaking of eligible sites, ORS 197A.480 states:

- (3) A rule issued under this section may only pertain to lots or parcels that are:*
 - (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;*
 - (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 any 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 plan approved under ORS 455.063*

***Emphasis added**

The governing statute is clear: development under the Oregon Homes Program shall not be “within areas identified as environmentally sensitive, natural hazard areas, or open spaces or scenic areas.” There is no mention of sites being eligible if a portion of the buildable area sits outside that identified or mapped area. Essentially the whole site must be outside to qualify. City and county mapping are not so precise as to allow them to be used to determine where on an individual lot is in or outside a sensitive or hazardous area.

We raise this point because of the proposed DLCD Div. 47 rules presented to the commission on July 29th state in 047-0010 in (8)(g):

(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;

(D) If a lot or parcel is otherwise eligible for an Oregon Home's Development, but within an area identified in paragraphs (A-C), development of an Oregon Home is still allowed so long as the developable area is wholly outside of the inventoried area, and its subject protections.

****Emphasis Added***

CONCLUSION

In reviewing the legislative record as well as existing DLCD programs, housing/land use statutes for uniformity and clarity, as well as the discussion among LCDC Commissioners regarding what they are looking for:

AOC and LOC propose the following draft rules for Division 47 as an alternative.

Thank you for your consideration of these proposed rules.

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

Overall Rules Comments

660-047-0010 Definitions

As used in this division, the definitions in ORS 197A.420, apply. In addition, the following definitions apply:

(1) "Building Height" means the vertical distance from grade plane (measured from the lowest ground surface a maximum of six feet from the building wall) to the average highest roof surface (measured to the tallest point of the roof of the building).

Alexandra Ring
2026-07-31 19:37:00

(2) "Grade plane" means a reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level is higher than the exterior walls, the reference plane shall be established by the lowest point between the building and the lot line or where the lot line is more than 6 feet from the building, between the structure and a point 6 feet from the building.

Alexandra Ring
2026-08-03 15:30:00

-ORSC R202

(2) "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.

(3) "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, facade materials and appearance, window coverage, driveways, parking configuration, pedestrian access, screening, landscaping, and private, open, shared, community, or courtyard spaces.

(4) "Developable area" means the space on the lot not including setbacks, public utility easements, right of way, and any required open space.

(5) "Environmentally sensitive area" means lands protected or designated pursuant to an area as designated in an acknowledged comprehensive plan or any one of the following statewide planning goals:

(a) Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces; including areas identified on the Oregon Statewide Inventory Mapper and implementing ordinances for riparian setbacks and riparian buffer zones.

(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 that would be 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;

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

(e) Housing types whose building plans have been approved by Department of Consumer and Business Services pursuant to ORS 455.062, ORS 455.685, or housing types that meet the criteria as provided in subsections (a) – (d) and approved through local building code review.

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

(a) 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;

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

(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, coastal erosion, tsunami zones or wildfire risk areas. Including areas identified 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.

(D) If a lot or parcel is otherwise eligible for an Oregon Home's Development, but within an area identified in paragraphs (A-C), development of an Oregon Home is

~~still allowed so long as the developable area is wholly outside of the inventoried area, and its subject protections.~~

(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 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 455.062, ORS 455.685, ~~or housing types that meet the criteria in section (5) and approved through local building code review.~~

(9) "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.

 "Utility easements" means an easement that allows a utility the specific areas of another's property for constructing and maintaining telecommunication, fiberoptic, water, stormwater and sewer lines. In 757.005.

(11)  "Fire code" means all Oregon Fire protection statutes and the as the State Fire Marshal adopted in accordance with ORS 476.030(1) a related to local ordinance.

(10) "Site plan" means a site or development plan that is drawn accurate include but are not limited to the following existing and proposed in

- (a) All property lines with dimensions and total lot 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;

Alexandra Ring
2026-07-31 19:39:00

This definition was taken from the Oregon City Municipal Code

Alexandra Ring
2026-08-03 20:28:00

This is the definition of Oregon Fire Code found in chapter 2 of the 2025 Oregon Fire Code and as referenced in the 2024 Amended International Fire Code dated August 2025.

- (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.

(l) Any other information as requested by the jurisdiction that shall be required to ascertain compliance with the provisions herein.

(11) **"Siting standards"** means a standard related to the position, bulk, structure or a standard that makes land suitable for development. It includes the placement of structures on a lot or parcel including setbacks, height, coverage. Siting standards include, but are not limited to, standards for setbacks, dimensions, bulk, scale, coverage, minimum and maximum requirements, utilities, and public facilities.

Alexandra Ring

2026-08-03 20:08:00

Mirrors the definition of siting standards division 46

(12) "Traffic impact analysis" means a report prepared by a professional engineer that analyzes existing and future roadway conditions.

~~(13) "Usable outdoor space" means one of the following:~~

- ~~(a) Outdoor recreation area surfaced with lawn, groundcover, gravel, or hard surface. The area must be 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.~~

Statutory/Other Authority: ORS 197A.408 Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

ADOPT: 660-047-0020 RULE SUMMARY:

This rule creates the local government review process for the development of Oregon Homes Lots.

CHANGES TO RULE: 660-047-0020 Local Government Review Process A local government must follow the review process as outlined below for an Oregon Homes Development proposed on an Oregon Homes Lot.

~~(1) Local governments must issue a land use 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.~~

- (1) Local governments shall review the applications ~~for Oregon Homes Development on an Oregon Homes Lot through a completeness check, being no more rigorous than using a ministerial review. Administration of~~ This review shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment and shall only be to ensure:
- a. The development qualifies as an Oregon homes development as defined in OAR 660-047-0010 (X);
 - b. The subject lot or parcel qualifies as an Oregon Homes Lot as defined in OAR 660-047-0010 (X); and
 - c. ~~compliance with~~ The development complies with the siting, design, and tree standards provided in OAR 660-047-0020 through OAR 660-047-0050, ~~and shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment.~~

~~(2)~~ A local government shall deem an application for an Oregon Homes Development complete when the applicant provides the following information to the local government:

(a) Site plan and exhibits that address requirements provided in 660-047-0010, 660-047-0030, 660-047-0040, and 660-047-0050;

(b) Building plans that are:

(A) Approved by the Building Codes Division, without modification, as meeting applicable building code standards; ~~or~~

~~(B) Building plans that meet the requirements of an Oregon Homes Development provided in OAR 660-047-0010 (5); and~~

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

~~(3)~~ A local government shall deem an application submission that does not include information required in this division incomplete.

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

~~(5)~~ A local government shall not require a public notice or hearing in reviewing or approving an application for Oregon Homes Development.

~~(6)~~ Nothing in this section precludes a local government from applying locally administered public facilities ~~plans~~ improvement 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 order in which a local government applies these locally administered standards or plans during the application or review period is determined by the local government at their discretion. A local government shall not ~~establish~~ require public facilities ~~plans~~ improvements, 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.

~~(7)~~ Nothing in this section precludes a local government from applying standards related to fire code review. The order in which a local government applies these locally administered standards or plans during the application or review period is determined by the local government at their discretion. A local government shall not require fire code requirements uniquely for an Oregon Homes Development that exceeds the process applied to all other residential development of the same type and nature.

~~(8)~~ A local government may charge applications a review fee compatible to similar development applications.

~~(9)~~ A local government ~~shall~~ may deny an Oregon Homes Development application if the application 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 660-047-0030 through OAR 660-047-0050. Applications that cannot meet the public facilities or fire code review requirements may also be denied.

~~(10)~~ 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.

~~(11)~~ 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.

Statutory/Other Authority: ORS 197A.408 Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

RULE SUMMARY: This rule establishes a set of design standards for an Oregon Homes Lot including entry orientation, garages and driveways, and waste storage facilities.

CHANGES TO RULE: 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 may apply only the following design standards outlined in this section in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot:

(1) Building height may not exceed 35ft, unless allowed by local ordinance.

(a) Where applicable, building height shall not exceed those limitations set by the Federal Aviation Administration (FAA), Oregon Department of Aviation (ODA), or any other State or Federal Agency having jurisdiction to regulate airspace.

(2) 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.

~~(3) Garages, carports, or on-site parking or vehicle maneuvering areas are not required. However, 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. A local government may require up to 1 parking space per unit or what is required by local code whichever is less.~~

(a) The combined width of the garages in an Oregon homes development shall not exceed 14 feet or the width allowed by the local government, whichever is greater.

(b) The width of a driveway shall not be greater than 9 feet per dwelling unit or the width allowed by the local government, whichever is greater. The combined width shall not exceed 32 feet.

(c) The following Oregon Homes Development scenarios are excluded from this standard:

(a) Accessible and adaptable units;

(b) Lots that receive vehicular access from an alley; and

(b) Off-street parking areas that are separated from the street lot line by a dwelling.

(2) For developments over 4 units with common storage areas for trash and recycling receptacles 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 area 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 4 feet in

height, ~~except as specified in subsection (c)~~ and located no more than 3 feet from the storage area.

(b) The storage facility must be separated from the street lot line by at least 5 feet.

~~(c) For lot lines abutting residential properties, the storage facility must either be setback from the lot line by at least 5 feet, or the screen facing the lot line must be at least 6 feet in height.~~

(d) Trash and recycling receptacles stored within a building are exempt from these standards.

(3) A local government shall approve an Oregon Homes Development application if the proposed site plan varies not more than 10 percent from the numerical design standards described in this section.

Statutory/Other Authority: ORS 197A.408 Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

ADOPT: 660-047-0040 RULE SUMMARY: This rule establishes a set of siting standards for an Oregon Homes Lot including setbacks, density, and required outdoor areas.

CHANGES TO RULE: 660-047-0040 Siting Standards 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. A local government may apply only the following siting standards in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot as outlined in this section. An Oregon Homes development must:

(1) For all Oregon homes developments except a multi-unit building greater than 35 feet in building height, provide a setback of at least 5 feet from side and rear lot lines, and at least 15 feet from the street lot line, unless lesser setbacks are required by the local government. For garages, the setback must be 18 feet if facing the street. Utility easements may require a larger setback.

(b) For multi-unit buildings greater than 35 feet in building height, the setbacks must be 10 feet on all sides or the setback allowed by local ordinance whichever is less. Building height is defined in OAR 660-047-0010.

(c) In cases where the lot abuts a Goal 3 or 4 protected area the local setback continues to apply.

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

(3) Provide outdoor area that is beyond lot area counted towards setbacks comprised of at least 15 percent of the gross site area, the area must be 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 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;
 - (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.

For multi-unit buildings, the required 15 percent area may alternatively be met with balconies attached to individual units. And is not required to be a 10'x10' square.

- (4) A local government shall approve an Oregon Homes Development application if the proposed site plan varies not more than 10 percent from the setbacks or ~~outdoor area characteristics~~ numerical requirements within this section.

Statutory/Other Authority: ORS 197A.408 Statutes/Other Implemented: ORS 197A.400, ORS 197A.408, ORS 197A.420

ADOPT: 660-047-0050 RULE SUMMARY: This rule establishes standards to guide the preservation, replanting, or replacement of trees on Oregon Home Lots.

CHANGES TO RULE: 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 Homes 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 outlined in this section 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) 12 inches or more DBH.

(3) If all of the criteria listed in OAR 660-047-0050

(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; 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

From: [CARPENTER Sean * DLCD](#)
To: [CAUDEL Ingrid * DLCD](#)
Subject: Comment Submission: MHOR Homes Phase One
Date: Thursday, August 6, 2026 3:33:40 PM

City of Baker City

To view the PDF of this rulemaking comment, please visit the [SharePoint Library here](#).

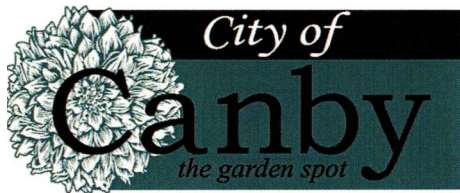
Name: Barry Murphy

Email: citymanager@bakercity.gov

Rule: MHOR Homes Phase One

Organization or affiliation (optional): City of Baker City

Comment: The League of OR Cities has provided a great set of recommended changes, Baker City urges DLCD to adjust their proposed rules based on this feedback. There is no reason to use "shall" language when the legislation includes "may" language. One size fits all solutions rarely work. This also applies to the standardized statewide framework. Local siting standards are there for a reason. Please work with LOC to adjust the proposed rules!



City of Canby

222 NE 2nd Avenue, Canby OR 97013
www.CanbyOregon.gov | 503.266.4021

July 30, 2026

City of Canby

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

Delivered Via E-Mail: housing.dlcd@dlcd.oregon.gov

RE: City of Canby Comments in Opposition to Draft Rules for Middle Housing Oregon Homes (MHOR) Phase One

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

Thank you for the opportunity to comment on the proposed Middle Housing Oregon Homes (MHOR) Phase One rules. The City of Canby supports the State of Oregon and its goal of producing more housing availability. We are actively advancing our efforts in this goal through our recent code changes, Comprehensive Plan Update, and upcoming UGB expansion.

Nevertheless, the City opposes adoption of proposed OAR chapter 660, division 47 as drafted. We believe that the Proposal goes beyond making state-approved building plans easier to use, and instead creates a separate statewide land-use entitlement that can displace acknowledged local plans and development standards and bypasses local review processes that are intended to preserve the identity goals and policies of the City. Canby's objection is not to middle housing or permit-ready plans; it is to a one size fits all approval pathway regardless of city size and urban character that removes community input and local planning in favor of a simplified approach that we believe has not been shown to reduce housing costs or increase availability.

Circumvention of Local Zoning, Density, and Community Planning

The proposed definition of an "Oregon Homes Development" includes a multi-family definition with seven to 11 units. An eligible "Oregon Homes Lot" may be any qualifying vacant lot from 1,500 to 20,000 square feet within an urban growth boundary and zoned for residential use. Proposed OAR 660-047-0020 would require a local government to approve such a project "notwithstanding any comprehensive plan or land use regulations or statewide land use planning goals" if the limited state standards are met.

The practical effect in Canby is significant. The City's published R-1 standards both provide for duplexes and middle housing and identify a 7,000-square-foot minimum lot and a 20-foot street yard on the side containing a driveway to be consistent with existing development, character, and interests in our community. Under division 47, an otherwise eligible vacant 7,000-square-foot lot in a neighborhood planned for low-density and/or middle housing could become

eligible for an 11-unit apartment building subject to a five-foot setback and a required approval of up to a 10 percent variation from that setback. Currently, Middle Housing code and mandatory adjustments get close to this number without the disruption to character or community interest.

That is a de-facto upzoning accomplished without the public input normally required to amend Canby's (or any cities) zoning. Proposed OAR 660-047-0020(6) expressly prohibits public notice or a hearing, which directly contradicts Statewide Goal 1, Citizen Involvement; a goal that is a defining factor of our state planning philosophy and is key to maintaining public interest and trust in local government. This is especially concerning after Canby residents, property owners, the Planning Commission, and the City Council invested substantial time in a recent locally tailored comprehensive planning process. Ignoring_ or purposefully avoiding this process with the goal of development speed will undoubtedly result in reduced confidence and trust of the public that the city serves in a time where public confidence in government is already reduced.

Local Context, Infrastructure, and Safe Site Design

The proposed five-foot setback on all sides does not account for the variety of street cross-sections, utility corridors, driveway configurations, and future right-of-way needs in Canby. Where a parking pad or a garage is proposed, a five-foot setback can leave inadequate room for safe vehicle maneuvering, including that for emergency vehicles, and pedestrian visibility. In cases where off-street parking is not provided, as the draft rules allow, a seven- to 11-unit project would place new demand on limited curb space without allowing the City to apply its ordinary parking and access framework which is based on commonly adopted safety and access requirements seen throughout the state and country.

Although proposed OAR 660-047-0020(7) preserves some application of public facilities plans, engineering plans, and traffic-impact requirements, that provision does not cure the conflict. Water, sanitary sewer, stormwater, transportation, utilities, fire access, and frontage improvements must be coordinated with building placement and site design. Mandating the entitlement and footprint while sharply limiting local siting standards risks moving conflicts to later engineering and building-review stages rather than eliminating them.

The Fiscal and Evidentiary Record Does Not Support the Proposed Preemption

The Notice of Proposed Rulemaking predicts that the program may reduce local review costs, calls the local fiscal impact negligible or modest, and states that outside assistance should not be necessary. Those conclusions do not account for the cost of creating and maintaining a second approval pathway updating forms and permit software, training time and materials for planning, engineering, building, and code-compliance staff, coordinating eligibility and demolition history, or administering later alterations to Oregon Homes projects. While this may not greatly impact a city like Portland or Salem, small to medium cities like Canby have limited capacity to take on continual updates and regulations, further slowing down development and review.

The State's July 2026 Local Residential Development Process Improvement Study points in the opposite direction on local capacity. It identifies repeated code and procedure changes, staff training, and new applicant materials as burdens on already constrained local resources. The study's permitting appendix also cautions that its samples are uneven and are not statewide

estimates; among other limitations, its state-system multifamily sample contained only 12 permits from one jurisdiction, and available data could not consistently separate local-review time from applicant-response time.

The feasibility appendix is expressly illustrative and does not estimate feasibility for any specific parcel or jurisdiction. It supports improving clarity, coordination, and review timing, but it does not establish that overriding local density, setbacks, lot coverage, design, and public participation is necessary to obtain those benefits. The Notice itself describes the anticipated affordability gains as slight or marginal and acknowledges uncertainty about how many developers will use the program. The administrative and neighborhood impacts are concrete; the claimed affordability outcome is not assured.

Long-Term Implementation and Code-Compliance Challenges

Division 47 would operate as an overlay in addition to Canby's existing zoning, middle-housing, building, public-works, and land-division procedures. Staff would have to track lot eligibility, vacancy and demolition history, plan approval status, unit-size limits, tree mitigation, site variations, and the standards applicable to later additions or alterations. This added layer will make the development code harder for applicants and residents to understand and will complicate long-term code compliance. A ministerial label does not remove this work; it only redistributes it to a smaller number of individuals. The recommendation to designate a housing development project coordinator to handle these applications and the increased transition workload may work in large jurisdictions but is infeasible in smaller jurisdictions that do not possess the substantial extra resources required to take a member of staff away from other projects or hire additional staff.

Recommendation

The City of Canby respectfully requests that the Commission not adopt proposed division 47 in its current form and instead rely on Oregon's existing middle-housing framework while the State works with communities on optional permit-ready plans, model checklists, technical assistance, and locally adaptable process improvements. If the Commission proceeds, the City requests that the rules be revised to:

- Limit an Oregon Homes Development to housing types and maximum unit counts already allowed by the local zone, and remove seven- to 11-unit multiunit dwellings from lots planned for single-dwelling and middle housing;
- Preserve locally adopted maximum density, setbacks, height, lot coverage, frontage, access, parking, design, and infrastructure standards when those standards are clear and objective, especially when related to safety and access concerns for emergency vehicles;
- Remove the mandatory 10 percent site-plan variation and the blanket prohibition on notice or a hearing, or make those provisions optional through local adoption as they are already in place for limited land use, mandatory adjustments, and middle housing;

- Revise the fiscal impact analysis to account for implementation, training, permitting system, cross-department coordination, and long-term enforcement costs, and/or provide funding and adequate transition <time>;
- Follow the LRDPI Study's evidence-based recommendations for clearer submittal materials, coordinated review, concurrent processing where appropriate, technical assistance, local capacity, and better data collection.

Canby is prepared to continue working with LCDC, DLCD, housing providers, and neighboring jurisdictions, especially those of similar size and capacity, on approaches that genuinely reduce barriers while protecting infrastructure, neighborhood function, and meaningful community participation. We urge the Commission to pause adoption and revise the proposal accordingly.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brian Hodson', with a long horizontal flourish extending to the right.

Brian Hodson
City of Canby Mayor

I



August 6, 2026

City of Hillsboro

Allan Lazo, Chair

Land Conservation and Development Commission

635 Capitol Street NE, Suite 150

Salem, OR 97301-2540

Dear Chair Lazo and Members of the Commission,

The City of Hillsboro appreciates the opportunity to comment on the proposed amendments to OAR Chapter 660 including the Oregon Homes Rules. The City recognizes the immense amount of work put into the rulemaking by DLCD, advisory committees, stakeholders and the Commission. However, as drafted, we have major concerns outlined in detail below.

Overarching Concerns

1. House Bill 2258 anticipated two paths for plan approval which included pre-approved plans produced by the State and approval of plans by the State through the Master Building Plan program. A third path was included in rulemaking and is not represented in the bill, nor does it align with the legislative intent.
2. While House Bill 2258 dictated that the Commission shall adopt rules for Oregon Homes, there were several elements that included "may" statements, indicating that not all of these were required.
3. The rules do not work as written and do not need to be adopted now. Instead, the rules could be adopted as one package in December to meet the regulatory deadline of January 1, 2027 while providing time to refine the rules so they are consistent with legislative intent and can be implemented locally.

The Third Path

House Bill 2258 directs the Commission to adopt rules requiring local jurisdictions to approve specified residential types on certain lots or parcels under specified conditions. The bill further states that it applies to housing types whose building plans have been approved under Section 5 of the bill. Section 5 of the bill includes only two distinct paths by which an applicant can receive approval for the housing discussed in the bill. Neither of these paths includes approval of plans by a local jurisdiction only. Creating a third pathway not contemplated by the bill is not consistent with legislative intent and should be abandoned.

During the legislative session in a presentation on the bill to the House Committee on Housing and Homelessness by the Senior Housing Policy Advisor from the Governor's Office, the intent of the legislation being limited to state approved plans was made clear. The presentation included the following language: "What is Oregon Homes? A statewide pre-approved building and land use program that would provide a series of building plans for single units, plexes, townhomes, cottage clusters and apartments with 12 units or less developed by the Building Code Division. Developers and housing providers may also submit building plans to BCD for review and approval as part of the existing Master Plan Program created by ORS 455.685." Again, the purpose of the program was focused on state-approved building plans with no mention of plans approved at the local level. If the purpose of this program is to reduce permitting time at the local level and standardize processes for developers across the state, then adding a plan review option at the local level which applies only to a single site will have the opposite effect.

May v. Shall

It is clear the Commission must adopt rules for the Oregon Homes program. Section 3 states that the Commission **shall** adopt rules by January 1, 2027. However, there are several elements which were included with a "may" and not a "shall" including the requirement to issue a land use decision. Section 2 of the bill includes the following language:

SECTION 2. (1) The definitions in ORS 197A.420 apply to this section.
(2) The Land Conservation and Development Commission **may** adopt rules requiring local governments to issue a land use decision, notwithstanding any comprehensive plan or land use regulations or statewide land use planning goals, approving the development of specified residential development types on certain lots or parcels under specified conditions.

Requiring a land use decision be issued is a step backwards for Hillsboro and our permitting processes. Hillsboro does not require a land use decision for single detached homes, ADUs and middle housing. Instead have a "Zoning Review" which is not a land use decision ahead of building permitting and are moving towards eliminating this entirely and reviewing all relevant information through the building permit process as many other jurisdictions do. This element is not required by HB 2258 and we would ask that the language at minimum be changed to allow jurisdictions to forego this at their election. OAR 660-047-0020 (1) should instead read: (1) Local governments ~~must~~ **may** issue a land use decision **no more rigorous than a ministerial 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. Not only is this more in line with the spirit of the

program, but it also follows the recommendation made by the draft Local Residential Development Process Improvement Study released for public review by HAPO in July. See recommendation 6.7 from the report below:

Description

Allow development to proceed as a building permit review whenever possible, particularly where the proposed housing types are allowed outright and subject to only clear and objective standards. Jurisdictions could eliminate a separate Type I land use review or offer the option of concurrent land use and building permit review.

Adoption Deadline

While rulemaking for House Bill 2258 and House Bill 2138 were not tied together in the legislation, the rulemaking for these two bills has been merged into one process with two phases as the topics overlap. However, for that very reason, the rules should be considered holistically as one package in December.

This will allow additional time for technical refinement of the phase one rules and consideration where there is overlap between the two bills. There is no need to rush this process particularly when many local partners have expressed concerns.

Thank you for the opportunity to provide comments on the proposed rules. The City supports reducing barriers to housing production and affirmatively furthering fair housing and asks that the Commission account for the goal and requirements of the Oregon Homes Program and whether or not these rules accomplish the program goal and requirements when making decisions on the proposed rules.

Sincerely,

A handwritten signature in black ink that reads "Rachel Marble". The signature is written in a cursive, flowing style.

Rachel Marble

Code and Policy Project Manager
City of Hillsboro Community Development Department
Rachel.Marble@hillsboro-oregon.gov



101 EAST BARNES AVENUE, P.O. BOX 336, HINES, OREGON 97738 (541) 573-2251
CITYOFHINES.GOV

City of Hines

August 4, 2026

Oregon Land Conservation and Development Commission
635 Capitol Street NE, Suite 150
Salem, Oregon 97301

RE: Formal Comments Opposing Proposed Amendments to OAR Chapter 660, Division 46 and
Proposed Division 47 - Oregon Homes Program

Chair and Commissioners:

The City of Hines respectfully submits the following comments opposing the proposed
amendments to OAR Chapter 660, Division 46 and the proposed adoption of Division 47
establishing the Oregon Homes Program.

The City recognizes that Oregon faces a significant housing shortage and supports thoughtful
efforts to increase housing opportunities throughout the state. However, the proposed rules
shift substantial financial, administrative, and legal burdens to local governments without
providing the infrastructure investment, technical assistance, or local flexibility necessary to
responsibly implement these requirements in rural communities.

The proposed rules depart from Oregon's longstanding system of coordinated land use
planning by significantly reducing local discretion while simultaneously imposing new
obligations on jurisdictions that often lack the financial capacity or public infrastructure
necessary to accommodate accelerated residential development.

I. The Proposed Rules Undermine Oregon's Tradition of Local Government Planning

Article XI, section 2, of the Oregon Constitution grants cities broad home rule authority over
municipal affairs. Although the Legislature may enact laws of statewide concern, Oregon's land
use system has historically balanced statewide planning goals with local implementation
through acknowledged comprehensive plans and locally adopted development regulations.

The proposed Oregon Homes rules substantially diminish that balance by requiring mandatory
approval of qualifying developments under prescribed state standards while overriding locally

adopted regulations in many circumstances. The rule expressly requires local governments to approve qualifying Oregon Homes developments when specified criteria are satisfied through a ministerial review process.

This approach transforms local governments from land use decision-makers into administrative processors of state-directed development.

Local elected officials possess firsthand knowledge of their community's infrastructure limitations, fiscal capacity, environmental constraints, emergency service capabilities, and long-term planning objectives. These locally adopted comprehensive plans represent decades of public participation and investment. Replacing local judgment with mandatory statewide standards weakens the collaborative planning framework established under Oregon's statewide planning program.

II. The Proposed Rules Conflict with Goal 11-Public Facilities and Services

Statewide Planning Goal 11 requires local governments to plan and provide public facilities and services in an orderly, efficient, and fiscally responsible manner.

Public facilities planning is not simply a permitting exercise. It requires communities to evaluate the capacity of water systems, wastewater treatment facilities, transportation networks, storm drainage, emergency response capabilities, and long-term capital improvement needs before development occurs.

The proposed rules assume that sufficient infrastructure either exists or can be accommodated with minimal fiscal consequences.

The Department's Fiscal and Economic Impact Statement concludes that implementation costs for local governments will be "modest," that jurisdictions will not likely require outside consultants, and that implementation should largely be accommodated through existing staff and permitting systems.

For many rural jurisdictions, including the City of Hines, those assumptions are not supported by operational reality.

The City is currently evaluating wastewater treatment capacity, long-term utility planning, transportation improvements, and future capital infrastructure investments. Infrastructure deficiencies cannot be remedied through administrative rulemaking alone. Expansion of housing capacity necessarily requires corresponding investment in public facilities.

Goal 11 recognizes this relationship by requiring coordinated planning between land use decisions and public infrastructure. The proposed rules reverse that sequence by requiring accelerated development approvals without ensuring infrastructure funding exists.

III. The Fiscal Impact Statement Significantly Underestimates Costs to Rural Governments

The proposed rules conclude that fiscal impacts to local governments will be negligible or modest.

The City respectfully disagrees.

Every additional residential unit increases demand upon municipal infrastructure and public services, including:

- Water production and distribution;
- Wastewater collection and treatment;
- Stormwater systems;
- Streets and transportation facilities;
- Fire protection;
- Police services;
- Parks and recreation facilities; and
- Long-term maintenance and replacement of public assets.

Unlike larger metropolitan jurisdictions, rural cities possess limited tax bases, minimal staffing, and significantly fewer opportunities to finance infrastructure improvements.

Many rural jurisdictions rely almost entirely upon competitive grants, state appropriations, and federal funding to replace aging infrastructure. Even when grant funding becomes available, engineering, environmental review, permitting, matching requirements, and construction timelines frequently span multiple years.

The proposed rules provide no dedicated infrastructure funding while simultaneously increasing pressure upon existing municipal systems.

Accordingly, the proposed rules constitute an unfunded state mandate whose financial impacts fall disproportionately upon Oregon's smallest communities.

IV. The Rules Prioritize Development Certainty Without Addressing Public Costs

The Department repeatedly explains that the Oregon Homes Program is intended to reduce entitlement risk, lower development costs, shorten permitting timelines, and provide greater certainty for builders through standardized plans and ministerial review.

Those benefits accrue primarily to private developers.

The corresponding public costs-including infrastructure expansion, increased municipal service demands, capital improvement obligations, long-term maintenance liabilities, and administrative compliance-remain the responsibility of local governments.

This creates an inequitable transfer of financial risk.

Private development receives greater regulatory certainty while rural taxpayers assume the long-term costs of supporting that development.

The City supports housing production. It does not support transferring the financial burden of statewide housing policy onto local governments without corresponding state investment.

V. Oregon Land Use Law Recognizes the Importance of Coordinated Planning

Oregon's land use program has consistently recognized that statewide goals must be implemented through coordinated local comprehensive planning rather than through isolated regulatory mandates.

The Oregon Supreme Court has long recognized that acknowledged comprehensive plans are the controlling land use documents through which statewide planning goals are implemented, and that local governments retain an essential role in balancing statewide objectives with local conditions.

The proposed rules significantly diminish that local planning function by replacing discretionary local review with mandatory state-directed approvals.

Such an approach is inconsistent with the cooperative planning model that has defined Oregon's land use program for more than fifty years.

VI. Rural Communities Should Not Bear Disproportionate Financial Burdens

The City of Hines encourages the Commission to consider amendments that would better balance statewide housing objectives with local government realities by:

- Providing dedicated infrastructure funding before mandatory implementation;
- Expanding planning grants for rural communities;
- Recognizing documented infrastructure deficiencies as a basis for delayed implementation;
- Preserving greater local discretion where public facility capacity is limited;
- Coordinating implementation with Goal 11 public facility planning requirements; and

- Conducting a more comprehensive fiscal analysis of impacts on small and rural jurisdictions.

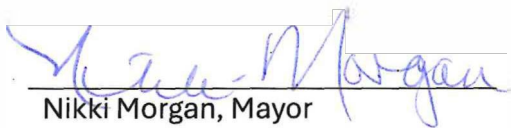
Conclusion

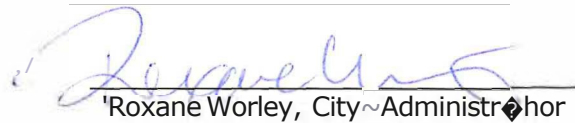
The City of Hines supports increasing housing opportunities throughout Oregon. However, successful housing policy requires more than expedited permitting. It requires reliable infrastructure, sustainable public financing, and respect for the role of local governments in implementing Oregon's statewide planning system.

Without meaningful infrastructure investment and greater flexibility for rural jurisdictions, the proposed rules impose significant unfunded obligations while diminishing the authority of locally elected officials to responsibly plan for their communities.

For these reasons, the City of Hines respectfully requests that the Land Conservation and Development Commission decline to adopt the proposed rules as currently drafted or substantially revise them to better protect local government authority, recognize infrastructure limitations, and provide meaningful financial support for implementation.

Respectfully submitted,


Nikki Morgan, Mayor


Roxane Worley, City Administrator


Hil Allison, Council President


Robert Beers, Councilor


Roger Hodge, Councilor


Hil Allison, Council President


Kim Valentine, Councilor


Misty Shepherd, Councilor

PUBLIC COMMENT

Proposed Oregon Administrative Rules Chapter 660, Division 047, Oregon Homes

Draft Rules Updated June 2026, Version 3, Published for Comment July 1, 2026

Brianne Margolin

To: Land Conservation and Development Commission and Department of Land Conservation and Development, Rulemaking Record, OAR 660-047

From: Brianne Margolin, Lake Oswego, Oregon | briannebmb@yahoo.com

Date: Aug 5, 2026

Re: This comment supports the Oregon Homes program, recommends rule changes to implement the objective framework directed by HB 2258 (2025), and includes proposed rule text in Exhibit A.

Summary of principal recommendations

- 1. Preserve the draft's core framework:** mandatory approval, exclusive standards, no hearings, and no discretionary review.
- 2. The bill's use of "may" determines who has authority to adopt rules; it does not make HB 2258 or its implementation optional.** Preserve the draft's mandatory approval framework.
- 3. Define "Objective Standard" in 0010 (proposed text provided),** including that a numerical standard is not objective if an official may require more on a discretionary finding.
- 4. Define "Heritage Tree" through objective, measurable criteria and an objective designation process:** species, size, age, condition, and location; designation before application; no hearings.
- 5. Require objective review timelines:** applications are deemed complete unless deficiencies are identified within 10 calendar days; decisions must issue within 20 calendar days; applications are deemed approved if the deadline passes.
- 6. Keep fees from becoming the barrier:** Limit review fees to the direct cost of processing the individual application, require an itemized estimate for fees over \$500, and limit fee-in-lieu to a flat replacement-cost amount, at the applicant's election.
- 7. Limit tree regulation to the standards in Section 0050:** Limit tree regulation to Section 0050, prohibit additional local preservation and canopy requirements, make certified arborist determinations conclusive, and exclude nuisance species from protected-species designations.
- 8. Require objective property-based standards:** prohibit requirements based on right-of-way trees; measure dimensional standards from recorded lot lines and recorded easements, not planned right-of-way lines or proposed easements.
- 9. Limit siting and design standards to objective, measurable criteria:** prohibit bulk, scale, massing, compatibility, solar access, and shadow standards; close the design-standard definition so unlisted features cannot be regulated.
- 10. Make eligibility objectively determinable:** specify the slope measurement method already used in OAR 660-038-0070, measured over the developable area; limit environmental exclusions to acknowledged Goal 5 inventories, establish a timing rule, and rely on state-standard hazard maps.

Exhibit A provides these recommendations as tracked-changes rule text. Exhibit B illustrates each

mechanism with adopted local code.

Page **1** of **18**

Public Comment - OAR Chapter 660, Division 047, Oregon Homes

This comment supports the Oregon Homes program and recommends rule changes to fully implement HB 2258 (2025)

Thank you for the opportunity to comment on the Version 3 draft of OAR 660-047, prepared by the Department of Land Conservation and Development (the Department) for adoption by the Land Conservation and Development Commission (the Commission). I am a Lake Oswego resident engaged in regional housing policy, and I comment individually. My interest is promoting policy that supports the goals of the legislature and prosperity across our state, including improvements to housing supply and affordability, increasing housing choice, supporting Oregon's employers and workers, and promoting equitable access to housing throughout the state. Oregon has underbuilt housing for years. Whether these rules advance those goals depends on whether they remove the local barriers the legislature identified, or leave those barriers standing under new labels.

I support the purpose of this program and the parts of the draft that carry it out. My concern is the openings the draft leaves for local process, local discretion, and local add-ons to return. The Department's meeting summary for the May 20 RAC meeting records city and county representatives asking that the rules allow local governments "to apply existing local processes and standards." Applying existing local processes and standards is the status quo. The status quo is what produced the underbuilding this statute addresses. That underproduction did not happen by accident. It resulted from local regulatory choices: excessive setbacks, restrictive tree standards, discretionary approval criteria, and expensive design requirements that serve no purpose beyond aesthetics. Had those barriers not accumulated, this legislation would not have been necessary. As of 2023, Oregon was the seventh most heavily regulated state in the nation, with the regulatory burden increasing 5.6 percent in a single year (Oregon Business and Industry Research and Education Foundation, Oregon Regulatory Impact Analysis, June 2025). The same study found that a 10 percent increase in regulations corresponds to a 1 percent increase in consumer prices, disproportionately harming the lowest-income Oregonians. Housing costs are consumer prices, and there is no reason to think housing regulation has been an exception to Oregon's pattern. The outcomes demonstrate the necessity: rising housing costs, limited housing choices, and a large and growing homeless population. The cost to residents and taxpayers of those outcomes is what this legislation and rulemaking help address. Comments in the record focus on cities' costs to amend their codes and administer new processes, but they do not account for the cost their existing regulations impose on residents. Higher development costs translate directly to higher housing prices and reduced supply, which raises prices further. That is a basic economic principle, and it is the cost this program is designed to reduce. This comment identifies the specific provisions where the draft leaves those openings, asks the Commission to close them before adoption, and provides proposed rule text to strengthen the division's delivery of what the legislature intended.

The bill's use of "may" allocates rulemaking authority to the Commission; it does not make HB 2258 or its implementation optional

Section 2(2) authorizes the Commission to adopt rules requiring local governments to issue a land use decision notwithstanding local plans, land use regulations, or statewide planning goals. Section 3 then requires the Commission to adopt those initial implementing rules by January 1, 2027. Together, these provisions assign two distinct decisions. Section 2(2) gives the Commission discretion over the content of the rules it adopts. Section 3 removes any discretion over whether those rules will be adopted.

Local governments have argued that the word may preserves local autonomy. That reading conflates these two decisions. The may in Section 2(2) allocates discretion over what the rules contain; it does not preserve local authority once the Commission acts. The content the bill describes is rules requiring approval notwithstanding local plans, mandatory on local governments by their terms. The draft correctly implements that structure: local governments "must issue a land use decision, notwithstanding any comprehensive plan or land use regulations or statewide land use planning goals" (0020(1)); they "may apply only" the listed design and siting standards (0030, 0040); review shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment (0020(2)); no public notice or hearing is permitted (0020(6)); and the burden of proof sits with the applicant (0020(5)).

The autonomy reading also fails on its own terms. Local governments need no statute to apply their own processes and standards; they do that today. If may preserved that status quo, the section would accomplish nothing, and the legislature does not enact empty sections. The better measure of intent is what the legislature did with this exact argument, because it heard it: the bill's public record includes opposition testimony from cities, counties, and the League of Oregon Cities urging local flexibility, and the legislature enacted the bill. The LOC's legislative testimony on HB 2258 urged a no vote on the same local-control and one-size-fits-all grounds now raised in the rulemaking record. The arguments have not changed; they have moved from the legislature, where they were heard and rejected, to the rulemaking. The same argument now reappears in the May 20 RAC summary, where local government members note that the bill "uses the word 'may'" and ask that the rules allow them "to apply existing local processes and standards." The Department has already answered it correctly in its own commentary: when RAC members asked for standards that vary by dwelling type and by jurisdiction size, the Department declined because variation "would not be in alignment with the legislative intent of uniformity in Oregon Homes" (0030 commentary). That reasoning should govern the Commission's exercise of its discretion across the division, including in Section 0020, where the draft applies it least.

The enrolled bill shows which choices belong to the Commission and which are already made

Reading the draft against the enrolled bill clarifies this rulemaking in both directions. Some draft provisions restate statutory text and cannot be changed by rule. Others are Commission choices that the commentary attributes to the statute but that the statute does not contain. The Commission has discretion to make the rule work better for housing.

- **Fixed by statute.** The 15 percent slope limit (Section 2(3)(f)). The eligibility exclusion categories in 0010(8)(g), which restate Section 2(3)(g). The 20 inch removal prohibition and the 12-inch mitigation threshold (Section 2(5)(e)). The certified arborist health determination (Section 2(5)(e)(B)(ii)). Local establishment of public facilities and traffic impact analysis processes (Section 2(5)(a)).
- **Commission choices, not statutory requirements.** (1) The definition of heritage tree, which the statute uses but does not define; (2) the same-species replacement requirement in 0050(3)(b), which appears nowhere in Section 2(5)(e); (3) the fee-in-lieu option in 0050(3)(c), which the statute does not mention; (4) scope of the term environmentally sensitive, which the statute does not define and which draft definition 0010(5) extends across six statewide goals; (5) average slope is measured, which neither the statute nor the draft specifies; (6) review fee authorization in 0020(8); and (7) the absence of decision timelines.

The recommendations in this comment respect that line. Where the statute has decided a question, this comment asks only for drafting clarity. Where the statute leaves the choice to the Commission, this comment asks the Commission to choose in favor of the housing production the legislature directed.

The draft gets the core mechanisms right, and they should be retained

The following provisions correctly implement the statute and should be adopted as drafted:

- **The notwithstanding clause.** 0020(1) approves qualifying development notwithstanding any comprehensive plan, land use regulation, or statewide planning goal. This is the mechanism that actually clears local obstacles.
- **The prohibition on public notice and hearings.** 0020(6) now bars both notice and hearings. Third-party process is where objective standards fail. This provision protects the non-discretionary character of the review.
- **The exclusive-standards structure in 0030 and 0040.** "May apply only the following" is the language that prevents local add-ons from accumulating. It should not be weakened.
- **The 10 percent variance safe harbors.** 0030(4) and 0040(4) give applicants flexibility through an objective tolerance rather than a discretionary adjustment process. This is the right way to build flexibility into a non-discretionary system. The safe harbor appropriately applies to all design standards in the section.
- **The developable-area carve-in is consistent with acknowledged Goal 5 programs and should be retained.** 0010(8)(g)(i) preserves eligibility where the developable area is wholly outside a mapped area. That is a sound proportionality principle, and this comment relies on it again below. Comments in the record argue this provision exceeds statutory authority and that the boundary determination requires discretion. Both objections fail. Cities often treat Goal 5 as a prohibition on development, but it is not. It is a program to inventory natural resources and determine the appropriate level of protection, including the option to allow development.

The statute excludes lots within an area identified in an inventory or map; an inventory identifies a resource, not a lot, and a lot partly within a mapped area and partly outside it is not the same as a lot within it for the purpose the exclusion serves. The bill exists to produce housing, and a lot whose developable area sits entirely outside the resource serves that purpose identically to the lot next door that misses the map by ten feet. The implementation objection fares no better. The implementation argument is equally unpersuasive. Statewide planning goals require that resource inventories and maps be adopted through a process subject to state acknowledgment review, and that the boundaries be determinable through clear and objective standards. Even where maps are drawn at a coarse scale, local codes contain adopted delineation methodologies for establishing precise boundaries on specific sites, and those methodologies are also required to be clear and objective. The tools to make this determination already exist in every acknowledged program. The Commission did not create a discretionary task; it asked cities to apply their own acknowledged tools to a question those tools were designed to answer. To the extent that any city's maps or delineation methods lack the precision to make this determination, the solution is to improve the program, not to exclude otherwise qualifying lots from the housing the legislature directed. There is a more

fundamental problem with the objection. The statewide planning goals require municipalities to inventory resources and then determine, through the ESEE process, whether development will be allowed without restriction, allowed with partial restriction or mitigation, or prohibited. Many acknowledged programs chose to allow development within the resource area itself, subject to conditions. If the underlying program permits building inside the resource with mitigation, it cannot be correct that the Commission exceeded its authority by allowing building outside the resource on the same lot. The carve-in is more conservative than what many acknowledged Goal 5 programs already permit. The practical impact of deleting this provision would be significant, particularly for established cities with mostly infill land. Lake Oswego's own Sensitive Lands Public Review Draft (LU 15-0019, 2015) states that the city's program regulated approximately 950 acres, or 15 percent of the land in the city, of which approximately 200 acres, or over 1,000 lots, were single-family lots, representing approximately 10 percent of single-family property owners. Many of those lots have only a portion within the resource overlay, not the entire lot. The carve-in exists precisely for those lots. Deleting it would exclude them entirely from the program even where the buildable area sits completely outside the resource, protecting no additional resource while removing housing capacity from land the program was designed to reach.

- **The absence of window and glazing percentage mandates.** The draft imposes no minimum window or glazing percentages, and it should stay that way; such requirements are cost drivers with no proven safety function. The RAC record shows some members asked for standards of that kind, and the Department was right to decline.
- **The corrected statutory authority citations.** Citing ORS 197A.408 as authority and ORS 197A.400, 197A.408, and 197A.420 as implemented statutes correctly grounds the division.
- **The inclusion of local building code review as a qualifying path.** Comments in the record argue that 0010(7)(e) should be limited to the two state-level plan-approval routes in Section 5 of the bill, removing the option for plans approved through local building code review. That argument should be rejected. The bill sequences the program logically: Section 3 makes the rulemaking mandatory by January 1, 2027; Section 5 authorizes BCD to designate a plan-approval process permissively and separately. The rules must exist before plans can be designed to comply with them. BCD has not yet stood up the state-level plan-approval process, and if local building code review is removed, the program would launch with no functional path for applicants. Local building code review is the standard, non-discretionary process every new home in Oregon already goes through. It is not an expansion of the program; it is the bridge that allows the program to produce housing while the state-level plan process is developed. Removing it would create a program that exists on paper and produces no housing until BCD acts, which is the delay the bill's emergency clause was written to prevent.

Section 0020 leaves the widest openings for local discretion, and it should be tightened

Four provisions of Section 0020 reflect the requests from local government representatives recorded in the May 20 summary. Each one places, inside the rule, a piece of the discretionary process the statute removed. The draft's own commentary describes the section's recent adjustments: clarifying that local

governments may apply public utility, engineering, and traffic impact requirements (0020(7) commentary), adding language that local jurisdictions may apply a review fee (0020(8) commentary), and describing review as a completeness check (0020(2) commentary). Each adjustment runs in the direction the local government requests sought, and toward the local discretion the legislature declined to preserve. The proposed rule text submitted by the City of Happy Valley illustrates what cities will do with the gaps the draft leaves open. Happy Valley's proposed site plan requirements would require the location and caliper of every tree onsite, a certified arborist health determination at application, and the angle of each doorway to the street, converting a streamlined application into an 18 item discretionary review checklist. Equally telling is where cities offer no changes: Happy Valley's proposed text leaves the tree standards entirely unmodified, which signals that the existing provisions, with no heritage definition, no fee limits, and no exclusivity sentence, already provide the discretion cities want. Each issue has a specific fix below, followed by two additional recommendations: a general anti-avoidance provision and decision timelines.

1. Call the approval what the bill calls it: a land use decision, with a process the Commission defines.

The public record raises a threshold question about the review process that should be resolved before adoption. The bill requires local governments to "issue a land use decision" approving qualifying development (Section 2(2)). Comments in the record argue that a ministerial review cannot produce a land use decision under ORS 197.015(10), which excludes decisions made without interpretation or policy judgment. That argument reads the bill as operating inside the existing statutory framework. It does not. The bill creates a new approval path, and the notwithstanding clause overrides conflicting procedural requirements, including statutory definitions that would exclude this decision type.

The resolution is straightforward. The rule should call the approval what the bill calls it: a land use decision. It should then define the process the bill authorizes, under the Commission's Section 2(5)(a) authority over the processes local governments may apply. That process is review based solely on compliance with the standards in this division, without public notice, without a hearing, and without discretion, interpretation, or the exercise of policy or legal judgment. The rule should describe this process directly rather than characterizing it as "ministerial," because that label is what triggers the ORS 197.015(10) exclusion the opposition relies on. The substance is identical: no discretion, no hearings, clear and objective standards. The label changes, and the definitional conflict disappears.

Recommend: revise 0020(1) to state that an approval under this division is a land use decision. Revise 0020(2) to provide that this land use decision is administered solely to confirm compliance with the standards in OAR 660-047-0020 through 0050, without public notice, hearing, discretion, interpretation, or the exercise of policy or legal judgment. Remove the characterization of the review as "no more rigorous than a ministerial review" and replace it with a direct description of the process the bill authorizes. The result is a new approval path, a land use decision administered under the process this division prescribes, rather than a forced fit into existing categories that were not designed for this program.

3. Completeness review needs an objectivity sentence.

Completeness review should answer only one question: has the applicant submitted the information required by this division? If that determination depends on discretionary judgments about what additional

information is needed, the objective approval process may never begin. The draft states when an application shall be deemed complete (0020(3)) and incomplete (0020(4)), but nothing confines how the completeness judgment is made. Completeness review can absorb the discretion the rest of the rule excludes: staff can find an exhibit insufficient, request more, and restart the clock, and the rule as drafted would permit it. **Recommend:** completeness determinations should be based solely on the presence or absence of the items required by 0020(3), without discretionary judgment or interpretation. All claimed deficiencies should be identified in a single written notice.

4. Subsection (7) implements a statutory reservation, but it adds discretion the statute does not require.

The statute reserves public facilities and traffic impact analysis processes to local governments, but it does not authorize those processes to become a source of discretionary review. Objective engineering standards can be administered through a non-discretionary approval process. What is incompatible with that process is case-by-case engineering judgment or discretion. 0020(7) implements the reservation in Section 2(5)(a). The reservation does not repeal ORS 197A.400. Local public works standards, engineering requirements, and traffic-analysis conditions applied to housing remain subject to the clear and objective requirements of existing law. The draft goes further than the statute requires in three ways. Its "including but not limited to" phrasing makes the list of local requirements open-ended. It attaches "requirements resulting from a traffic impact analysis," which are by nature case-by-case. And it provides that the order in which these standards are applied "is determined by the local government at their discretion," placing express discretion inside a rule whose defining sentence prohibits it. A local government that cannot deny an application can still delay and obstruct through process: an open-ended engineering review, applied in an order of the reviewer's choosing, produces the same delay and cost as the discretionary process the statute eliminated.

The final sentence of (7), barring requirements imposed uniquely on Oregon Homes projects, is necessary but not sufficient. Equal treatment under a discretionary or open-ended process is not the reform the statute enacted. **Recommend:** requiring that standards applied under this subsection be clear and objective, contained in adopted and published documents in effect on the application date, and not reduce the buildable area required to meet minimum density. The sentence allowing local governments discretion over sequencing should be deleted.

5. The new fee authorization has no limit that means anything.

New 0020(8) allows "a review fee compatible to similar development applications." "Compatible" is not a standard, and "similar development applications" in many jurisdictions means discretionary applications with fees scaled to discretionary review. A jurisdiction constrained on standards and process can move the barrier into the fee schedule, and an undefined cost standard invites the same result by another route: cost studies define "cost" generously, absorbing overhead, administration, and systems allocations until the study supports whatever fee was wanted. The scope of review under this division is deliberately narrow, and the fee rules should match it. **Recommend:**

Review fees shall recover only the direct costs of processing the individual application. General governmental overhead, capital expenditures, software acquisition and development, information technology infrastructure, department administration, policy development, code maintenance, enforcement activities, and costs attributable to other applications or programs shall not be included.

The fee shall not exceed the fee charged for a comparable non-discretionary residential permit. For any fee exceeding \$500, the local government shall provide a written, itemized estimate of projected review costs before commencing review and a final itemized statement of actual direct costs incurred upon request.

Three notes on these provisions.

(1) the named exclusion list is what makes the cost standard objective and the final item bars a city from charging Oregon Homes applicants for work done on other applications or programs.

(2) the \$500 threshold reflects the limited scope of this review while providing transparency for unusually large fees.

(3) the fee should be stated in the code itself and adopted or amended only through the land use process that applies to the code. This ensures the applicant can determine the cost of an application by reading the code and the public process is retained. A fee set by resolution or placed in a master fee schedule can be changed at any time by the governing body. The rule limits should apply regardless of the instrument in which a fee is set, whether code, ordinance, resolution, administrative manual, or master fee schedule.

6. What a requirement does determines whether the division governs it, not where the city chose to publish it.

The exclusivity recommendation for the tree standards below has a general counterpart, and it belongs in Section 0020. A local government should not be able to place a requirement that conditions, delays, or adds unreasonable costs to an Oregon Homes Development outside its zoning or development code, in a free-standing ordinance, a public works manual, or an administrative policy, and then contend the requirement sits beyond this division's reach. **Recommend:** rule should provide that any local requirement that applies to an Oregon Homes Development is subject to this division regardless of where it appears in the local government's codes, ordinances, resolutions, manuals, or policies, except the public facilities and traffic impact analysis processes that Section 2(5)(a) of the bill reserves to local governments. What a requirement does should determine whether the division governs it, not where the city chose to publish it.

7. The review needs enforceable timelines.

The draft sets no deadline for a completeness determination and no deadline for a decision. Delay is itself a barrier to housing production. This review therefore requires enforceable timelines as well as objective standards. The rule should adopt the structure Oregon law already uses for completeness under ORS 227.178, adapted to this review, which forecloses the successive information requests and sufficiency objections that defeat deadlines in practice. **Recommend:**

(1) deficiencies must be identified in a single writing within 10 calendar days of submission, drawn only from the items listed in 0020(3); information beyond that list may not be required, and a request for it neither affects completeness nor tolls any deadline.

(2) on resubmittal, review is limited to the items identified in the notice, and any deficiency not identified is waived.

(3) following ORS 227.178, the application is deemed complete when the applicant provides each identified item or declines in writing to provide it.

(4) a submitted item may not be treated as missing on grounds of sufficiency; whether the materials demonstrate compliance is decided at the decision stage, where 0020

(5) already places the burden on the applicant.

(6) a decision on a complete application must issue within 20 calendar days, the application is deemed approved as submitted if the deadline passes, and the deadlines may be extended only at the applicant's written request. The structure leaves one notice, one list, one clock.

Define “Objective Standard” to give the rule enforceable meaning

The division nowhere defines what an objective standard is. The entire structure of the program, and ORS 197A.400's clear and objective mandate for housing standards, depend on that term having enforceable content. I recommend the Commission adopt the following definition in 660-047-0010:

"Objective Standard" means a standard that does not involve discretionary judgment, subjective evaluation, personal or community preference, or qualitative interpretation by a local government, and that can be applied and verified solely through measurable, quantifiable, or clearly defined criteria. An objective standard must be uniformly applied and must not require interpretation of intent, character, compatibility, aesthetics, or other subjective factors.

The definition needs one companion rule to have effect. A numerical standard is not clear and objective if another provision authorizes an official to require more than the number based on an open-ended finding. A 5 foot setback is not objective if the engineer may require a greater setback "where site conditions warrant." A 12-inch threshold is not objective if staff may require an arborist report "where deemed necessary." The rule should state that a standard is not an Objective Standard if any provision of local code, manual, or policy authorizes a local official to impose additional or different requirements based on a discretionary finding. With the definition adopted, Sections 0020 through 0050 should state that only Objective Standards may be applied to an Oregon Homes Development.

Define “Heritage Tree” using objective, verifiable criteria (rule text proposed)

Section 2(5)(e)(A) of the bill makes heritage tree status an absolute removal prohibition and leaves the term undefined. The draft leaves the designation entirely to local governments with no criteria. That combination reproduces a known failure. Many local heritage programs allow any person to nominate a tree, and apply criteria such as community significance, landmark importance, distinctive character, or horticultural quality that nearly any mature tree can satisfy. Once designated, the tree can effectively never be removed, and the buildable area of the lot shrinks with it. Under this rule, that designation power would operate inside a mandatory approval system, so a designation would function as a discretionary veto over a project the statute requires to be approved.

The definition should rest entirely on measurable, verifiable criteria, and no significance test of any kind, including historical, cultural, aesthetic, or community significance, may be applied. A significance test is an interpretive judgment, and an interpretive judgment cannot support an absolute prohibition in a non-discretionary rule. Minimum size and age are the right kind of criteria precisely because they are measurable. **Recommend:** the Commission adopt the following in 660-047-0010:

"Heritage Tree" means a tree designated by a local government before the date an Oregon Homes Development application is submitted, and only if it meets all of the following criteria:

(1) Species. The tree is a Heritage-Eligible Species.

(2) Size. For conifers, the tree has a DBH of 36 inches or larger. For broadleaf trees, the tree has a DBH of 30 inches or larger.

(3) Age. The tree is estimated to be at least 100 years old, based on documented species-specific growth characteristics, core sampling, or accepted arboricultural age-estimation methods.

(4) Condition. The tree is healthy, as verified by a certified arborist using International Society of Arboriculture standards for structural integrity, disease, and vigor.

(5) Location. The tree is located entirely outside the buildable area required to meet minimum density under ORS chapter 197A. A tree that intrudes into that buildable area does not qualify as a Heritage Tree.

(6) Objectivity. No additional criteria, including historical, cultural, aesthetic, horticultural, or community significance, may be applied.

*"Heritage-Eligible Species" means any of the following long-lived, large-stature species capable of reaching exceptional size and age in Oregon. Conifers: Douglas-fir (*Pseudotsuga menziesii*); western redcedar (*Thuja plicata*); ponderosa pine (*Pinus ponderosa*); Sitka spruce (*Picea sitchensis*); sugar pine (*Pinus lambertiana*); western hemlock (*Tsuga heterophylla*); giant sequoia (*Sequoiadendron giganteum*); coast redwood (*Sequoia sempervirens*). Broadleaf trees: Oregon white oak (*Quercus garryana*); California black oak (*Quercus kelloggii*); bigleaf maple (*Acer macrophyllum*); black cottonwood (*Populus trichocarpa*); London plane tree (*Platanus x acerifolia*).*

The timing requirement is as important as the criteria: a heritage designation adopted after an application is submitted, or in anticipation of one, should not defeat a qualifying project. The rule should provide that no tree may be nominated, designated, or evaluated for heritage status during review of an Oregon Homes application. It should also make clear that a tree designated under any local process or criteria that does not satisfy this definition is not a Heritage Tree for purposes of this division, and that no hearing, consent, or discretionary approval may be required for tree removal as part of an Oregon Homes Development. Local heritage programs may continue to operate for other purposes but may not alter this rule's removal standards.

Section 0050 should preserve the statutory framework while closing remaining gaps

The 0050 commentary states the rules "do not add any additional tree removal requirements beyond those outlined in HB 2258," with one acknowledged exception: "the proposed rules add an option for local governments to require a fee in lieu." Conformity with the statute is the right goal. The provisions below either implement it incompletely or add local powers the statute does not contain.

1. State expressly that local tree regulation does not stack on top of these standards.

As drafted, section 0050 is silent on whether local governments may impose additional tree requirements. The notwithstanding clause in 0020(1) overrides comprehensive plans, land use regulations, and statewide goals. Oregon case law holds that tree-cutting regulations adopted outside the zoning ordinance are not land use regulations (*Lazarus v. City of Milwaukie*). A city with a free-standing tree ordinance can therefore argue the clause never reaches it. The result would be a rule that governs the easy removals while every difficult tree routes back into the local discretionary tree code, which is the process the statute targeted. **Recommend:** add one sentence to 0050: local governments may not impose tree preservation, removal, retention, canopy, protection zone, or mitigation requirements on an Oregon

Homes Development beyond the standards in this rule, regardless of the ordinance or code chapter in which local requirements appear. Naming retention and canopy matters, because minimum tree retention percentages are the emerging local form of the same restriction, presented as a site design standard rather than a removal limit. Tree protection zones present the same problem in a different form. Local codes commonly require a no-disturbance buffer around each retained tree, measured either by the drip line or by a radial formula such as one foot per DBH inch. A 20-inch tree under a one-foot-per-inch rule could remove a circle of over 1,250 square feet from the buildable area. On a small Oregon Homes lot, one or two retained trees with protection zones of that size can consume the buildable area entirely, making it impossible to meet minimum density even though no tree was removed. Neither method appears in the bill. The drip line is a field observation that varies by arborist and is not ascertainable from a survey; the radial formula is calculable but creates variable, tree-specific setbacks across the site. The rule should provide that no tree protection zone, root protection zone, drip line buffer, or similar no-disturbance area may reduce the buildable area required to meet minimum density under this division, and that where a protection standard is applied, it must be defined by a fixed, calculable method stated in the rule, not by a field-determined drip line or other variable measurement.

2. Strike the same-species replacement requirement. The statute does not contain it.

Section 2(5)(e)(B) requires "the replacement of or replanting" of qualifying removed trees. It says nothing about species. The commentary states the rules add no requirements beyond the bill, but 0050(3)(b) requires replacement "with a tree of the same protected species," which is a rule addition. It is also a poor forestry practice on a development site. A species that grows to 150 feet may be unsuited to a small lot near structures and utilities, with insufficient soil and sun for the tree to survive. Species flexibility improves tree diversity, fire safety, and climate adaptability, raises survival rates, and makes replanting a realistic choice instead of pushing applicants to the fee. **Recommend:** replace the same-species requirement with: a tree suited to the site from a regional list of native or climate-adapted species that is not a Nuisance Tree.

3. Define Nuisance Tree and keep noxious species out of the protected-species trigger.

Mitigation under the statute attaches only to trees "locally designated as a protected species" (Section 2(5)(e)(B)(i)). The designation is the local lever, and the rule should give it objective limits rather than leave it open. **Recommend:**

"Nuisance Tree" means a tree of a species listed as noxious or invasive by the Oregon Department of Agriculture or the Oregon State Weed Board, or designated as invasive by a local government.

Recommend in 0050: a local government may not designate a Nuisance Tree species as a protected species; and only protected-species designations adopted before the application date apply to an Oregon Homes Development. This achieves the exemption for invasive species within the statutory structure, because a tree that is not a designated protected species carries no mitigation duty under Section 2(5)(e)(B).

4. Make the arborist determination cheap for the obvious cases.

The certified-arborist health determination is statutory (Section 2(5)(e)(B)(ii)), so the rule cannot replace it with applicant self-certification. It can make the determination inexpensive. The rule should provide that the health determination for a dead or clearly declining tree may be made by any certified arborist,

including a certified arborist on the local government's staff through inspection at no charge to the applicant, or through documented photographic review, and that a local government may not require the applicant to retain a private arborist or commission a site-visit report where a certified arborist has provided a written determination. A written determination by a certified arborist should be conclusive for purposes of this division. The rule should also clarify that nothing in this division limits removal of dead or hazardous trees under other lawful authority outside an Oregon Homes application.

5. Cap the fee-in-lieu at replacement cost. The statute does not authorize an unpriced local fee.

The statute requires replacement or replanting and never mentions a fee. The fee-in-lieu is a Commission addition, as the 0050 commentary acknowledges, and its measure should follow its purpose: funding one replacement tree of a standard planting size, about 6 feet tall or 1.25 to 1.75 inches in caliper, which costs roughly \$150 to \$250 to buy and plant. A per-inch fee measures the size of the removed tree rather than the cost of replacing it. Because replacement cost does not vary proportionally with the size of the removed tree, per-inch fees operate as charges on removal rather than funding for replacement. Portland's current fee schedule illustrates the problem: a \$472 per inch fee results in a \$9,440 charge for removing a single 20 inch tree, far exceeding the cost of replacing that tree. See Exhibit B, Example 3. The fee-in-lieu also shares the placement problem addressed in the review-fee recommendations above: an amount "as established by local ordinance" under 0050(3)(c) is commonly set in a master fee schedule outside the land use process, where it is neither reviewable as a standard nor ascertainable from the code.

Recommend:

- (1) a fee in lieu may be set only as a flat amount per removed tree, measured by the cost of a replacement tree of the planting size the rule specifies, never by the DBH or caliper of the removed tree, and capped at \$300 per tree, indexed if the Commission prefers.
- (2) the amount should appear in the code, so it cannot be relocated to evade the cap. Third, the choice among the mitigation options in 0050.
- (3) belongs to the applicant; a local government may not direct, require, or condition which option is used, so that an official finding of insufficient or unsuitable planting area cannot convert a modest planting obligation into the fee.

The recommendations above are also consistent with longstanding constitutional principles governing permit exactions. Under Nollan, Dolan, Koontz, and Sheetz, which extend to monetary and legislatively imposed conditions, a permit condition must bear an essential nexus and rough proportionality to the development's own impact. Proportionality is more than matching counts, and the permit power may not be leveraged to fund public goals the development did not make necessary. By tying any fee to the cost of replacing the removed tree, limiting the amount to that cost, and preserving applicant choice among mitigation options, the rule aligns with these principles without requiring the Commission to incorporate constitutional standards into the rule itself.

6. No standard should be measured by trees the applicant does not own or control.

A related local practice deserves its own rule. Based on my review of local codes, minimum tree retention requirements have begun to appear, including versions that count trees in the public right of way toward the required number. Where one city adopts a form, it has usually been drawn from a code somewhere else, so the form should be expected to spread. The structure fails on its own terms. Right-of-way trees

are owned or controlled by the city, not the applicant. The city can prune, remove, or condemn them at any time, and the applicant can do nothing to preserve them. A standard measured by those trees makes the applicant's compliance depend on assets and decisions that are not the applicant's, which no applicant can satisfy or prove through their own action, and which the applicant's burden of proof under 0020(5) cannot reach. The statutory scheme points the same direction: HB 2258 regulates lots and parcels (Section 2(3)), attaches its tree standards to trees removed by the development, and locates replacement on or adjacent to the developed lot (Section 2(5)(e)(B)). Nothing in it contemplates standards measured by public trees. **Recommend:** the rule should provide that no standard applied to an Oregon Homes Development may be based on, measured by, or conditioned on trees or other features located in the public right of way or otherwise not owned and controlled by the applicant, and that right-of-way trees may not be counted toward or against any retention, canopy, mitigation, or credit calculation.

7. State both DBH thresholds plainly with their statutory sources.

The bill establishes two separate tree thresholds that serve different functions: trees 20 inches DBH or larger may not be removed at all, while trees 12 inches DBH or larger may be removed but require mitigation. The draft rule in 0050 contains both thresholds but does not clearly distinguish their functions. The rule should label each threshold plainly: 20 inches is a removal prohibition, 12 inches is a mitigation trigger. Without that clarity, applicants and staff must work out the relationship between the two subsections on their own, which is a documented source of confusion in the record.

Eligibility turns on numbers and maps the draft never defines

1. The slope threshold is statutory, but the Commission must define how it is measured.

Section 2(3)(f) makes eligible only lots "not covered by slopes averaging more than 15 percent," and the 15 percent figure is the legislature's. But neither the statute nor the draft defines the area over which the average is computed, the calculation method, or the data source. Average slope is not a self-defining number. The result changes with the area measured, the resolution of the elevation data, and the formula applied. A city GIS estimate and an applicant's survey will routinely disagree, and a non-discretionary review has no lawful way to resolve that disagreement, because resolving it requires exactly the interpretation and judgment the rule prohibits. An eligibility criterion without a measurement method is not an objective standard, whatever number it contains.

The Commission should specify the method in 0010(8)(f). **Recommend:**

(1) the measurement area: the average should be computed over the developable area of the lot rather than the entire parcel. The statute does not specify the area, and the Commission has already interpreted the eligibility criteria through a developable-area lens in draft 0010(8)(g)(i), which preserves eligibility where the developable area lies wholly outside a mapped exclusion even though Section 2(3)(g) contains no such provision. The same logic applies to slope: a lot whose developable area meets the threshold should not be disqualified by an unbuildable rear slope that drags the parcel-wide average up.

(2) the method: the Department already has slope-measurement language elsewhere in chapter 660, in a rule that classifies residential land by slope, and the rule should adopt it here: "Slope shall be measured as the increase in elevation divided by the horizontal distance at maximum 10-foot contour intervals." (OAR 660-038-0070). Using the Department's existing formula keeps measurement consistent across the

chapter, and the 10 foot maximum contour interval fixes the data resolution so that any two people applying it to the same lot reach the same number.

(3) the data source: a slope determination prepared by a licensed surveyor or engineer using site-specific data consistent with that method controls over a generalized GIS or contour estimate.

2. The environmental exclusion sweeps in six statewide goals, far past what the statute requires.

Section 2(3)(g)(A) excludes lots identified in a comprehensive plan inventory or map as "environmentally sensitive or containing significant natural resources," and the statute does not define the phrase. Draft definition 0010(5) defines environmentally sensitive area by reference to Goals 5, 6, 15, 16, 17, and 18. Goal 5 alone covers natural resources, scenic and historic areas, and open spaces, and 0010(8)(g)(B) separately excludes "open space or scenic areas." These categories are locally inventoried, and their breadth varies enormously by jurisdiction. As drafted, a jurisdiction with expansive inventories loses most of its eligible land, and a jurisdiction that wants to limit the program can expand its maps. Where the statute leaves the definition to the Commission, the Commission should define it narrowly.

Recommend: confine the exclusion to resources on an acknowledged Goal 5 inventory carried into adopted, acknowledged code, with eligibility preserved where development is permitted with mitigation or under an adopted ESEE program. A Goal 5 program is a framework for decision-making, not a blanket prohibition, and the rule should not treat it as one.

3. Eligibility maps need a timing rule and objective sources.

For all of the 0010(8)(g) exclusions, eligibility should be determined by the inventories and maps in effect on the date the application is submitted, with later amendments applying only once acknowledged through the applicable state process. For hazard areas, where a state-standard map or methodology exists, such as FEMA flood mapping, state landslide hazard mapping, or the statewide wildfire hazard map, the state-standard source should govern. Locally drawn overlays that exceed the state source should not remove lots from the program. Without a timing rule, a jurisdiction can shrink its supply of eligible lots by expanding a locally drawn overlay, including after an application is anticipated.

Limit siting and design standards to objective, measurable criteria

The design and siting standards authorized by HB 2258 are intended to be objective and measurable. Standards that depend on qualitative judgment rather than fixed criteria are incompatible with a non-discretionary approval process because different reviewers can reasonably reach different conclusions.

1. Bar bulk, scale, massing, and compatibility as site layout or dimensional standards.

0040 should state that local governments may not use bulk, scale, massing, or compatibility for site layout or dimensional standards. The authority for that sentence is express: Section 2(5)(b) of the bill directs the Commission to specify not only the applicable design standards but "the scope of the design review," and stating what design review may not reach is the core of that authority. Bulk, scale, massing, and compatibility appear nowhere in the bill. They enter from two directions the statute does not sanction: adopted development design codes, where terms of this kind are common, and the draft's own definition of siting standards in 0010(11), which lists bulk and scale among the subjects of regulation while 0040 nowhere authorizes them, an ambiguity a local government can read as permission. These four words are the most common vehicles for subjective review of residential projects, and local governments use them

to shrink buildable area through interpretation. An express prohibition is what keeps them out of a non-discretionary system. **Recommend:** 0040 should state that local governments may not use bulk, scale, massing, or compatibility for site layout or dimensional standards.

2. Bar solar and shadow standards as siting controls.

Recommend: add to 0040: standards related to solar access, shadow impacts, or shading of neighboring properties may not be used to regulate building height, setbacks, building orientation, or site layout for an Oregon Homes Development. Shadow review is discretionary by nature and operates as a de facto height and massing limit.

3. Keep street improvement and dedication demands from consuming the density the statute requires.

Recommend: add to the siting standards: driveway spacing, street frontage, and dedication requirements may not reduce the ability to achieve the minimum density required under this division or eliminate dwelling units, except as necessary to accommodate existing public utilities. The same background principles discussed in the tree standards bear on dedication requirements; Dolan, the source of the rough proportionality standard, was itself a dedication case from an Oregon city. Fire access requirements should be those of the Oregon Fire Code, applied as written, rather than local amendments or interpretations. Several comments in the record characterize front-yard setbacks as a fire-safety requirement. They are not. The Oregon Fire Code addresses fire access through street widths, apparatus-road standards, and building separation, not through setback dimensions on private lots. The word setback does not appear in the Oregon Fire Code. Front-yard setbacks are a zoning standard, and treating them as a safety matter invites cities to reimpose local setback preferences under a rationale the fire code does not support. This answers the fire-safety concerns raised in the May 20 RAC discussion with a uniform, objective source.

4. Measure dimensional standards from recorded lines, not planned ones.

The control principle in the tree standards has a dimensional counterpart, and the draft itself shows the problem. 0040(1) sets the setback at 5 feet "or the distance required for a proposed or existing utility easement." A proposed easement is an intention, not a recorded property interest. An applicant cannot find it in a title report, cannot verify its dimensions, and cannot control whether or where it lands. The same defect appears in local codes that measure setbacks from a planned or future right-of-way line in an adopted street plan rather than from the recorded lot line, shrinking buildable area today for a public project that may never be built, and reserving private land for a public use without acquisition or compensation.

The RAC has already flagged this question: the May 20 meeting summary records members noting that easements "may be difficult to apply" and asking "how future right-of-way improvements would be addressed." The answer should be the recorded instrument. The rule should provide that all dimensional standards applied to an Oregon Homes Development are measured from recorded lot lines and recorded easements in effect on the application date, and that no setback or other dimensional standard may be based on a planned or future right-of-way line, an adopted street plan, or a proposed or unrecorded easement. In 0040(1), "proposed" should be deleted or confined to easements the applicant itself proposes as part of the development. This standard does not impede utility extension, including in less developed communities bringing in sewer, water, or gas for the first time. Mainline utilities run in the

public right of way the city already controls. Where a project genuinely requires a corridor across private land, the city can acquire and record the easement, with the just compensation the Fifth Amendment requires when private property is taken for public use, and a recorded easement is exactly what this standard respects. An alignment definite enough to justify a setback is definite enough to record. **Recommend:** the rule should provide that all dimensional standards applied to an Oregon Homes Development are measured from recorded lot lines and recorded easements in effect on the application date, and that no setback or other dimensional standard may be based on a planned or future right-of-way line, an adopted street plan, or a proposed or unrecorded easement. In 0040(1), "proposed" should be deleted or confined to easements the applicant itself proposes as part of the development.

5. Close the design-standard definition so unlisted aesthetic controls cannot ride in.

The definition of design standard in 0010(3) lists the regulated features, and the list determines the reach of the 0030 ceiling: a standard regulating a feature outside the definition is arguably not a design standard at all, and so not capped by "may apply only." The definition also omits building massing, moving massing standards outside the ceiling. **Recommend:** to prevent unlisted aesthetic requirements from being applied as unregulated add-ons, the definition should include building massing and also capture upper story setbacks, proportions, parapets, rooftop equipment screening, window trim, door design, colors, architectural details, plant placement, signage, awnings and canopies, transparency, pattern, roof form and pitch, grading, fences, walls, and exterior lighting. Adopted local codes regulate these features in detail today, including roofline elements, upper story setbacks, minimum trim widths, and window proportion ratios. Section 0030 should confirm that design features not listed in 0030 may not be regulated for an Oregon Homes Development.

6. Small drafting item.

In the usable outdoor space definition, "turf or grass play fields" should read "turf or grass fields." Turf and grass areas serve outdoor uses beyond play, and the qualifier invites interpretation.

Technical corrections

- **Accessory dwelling units on Oregon Homes lots.** Comments in the record suggest that the vacancy requirement in 0010(8)(h) prevents ADUs from qualifying under this program. That reading makes ADUs impossible despite Section 2(4)(a) of the bill expressly listing them as an eligible housing type. No legislative fix is needed. The legislature's intent is clear from the structure of the bill: an accessory dwelling unit is by definition an additional unit, so there must be a first one. The vacancy requirement ensures the program creates new housing on vacant lots, and the sequencing is inherent in the concept. An applicant proposes a primary dwelling and an ADU as a single Oregon Homes Development on a vacant lot. The approval is conditional only as to which dwelling is constructed first: the primary dwelling receives a certificate of occupancy, and the ADU follows. An applicant who builds the primary dwelling and later decides not to build the ADU has complied; what the sequencing prevents is building the accessory unit first without completing the primary dwelling, which would also be impractical since an ADU relies on the infrastructure of the primary dwelling. The rule should clarify this sequencing so the implementation path is clear and aligned with the statute.

- **Buildable area and unit size.** Comments in the record argue that the draft's per-dwelling-unit language in 0010(7)(b)(A) expands the buildable area beyond what the bill intended, and that the 2,200 square foot figure should apply to the total development rather than to each unit. That reading does not survive the bill's own text. Section 2(4)(b)(A) states: a size of not more than 2,200 square feet for a single-unit dwelling, accessory dwelling unit, or per dwelling unit for duplex, triplex, quadplex and townhouse. The first half of the sentence establishes that a single-unit dwelling may be 2,200 square feet. The phrase per dwelling unit is added for the multi-unit types to make clear that each unit in a duplex, triplex, or quadplex is individually limited to 2,200 square feet, not that the total is 2,200. Under the alternative reading, a quadplex would be limited to 2,200 square feet total, or 550 square feet per unit. That is not a standard size of residential housing in Oregon and is not consistent with the first half of the same sentence, which allows a single-family home to be 2,200 square feet. The per dwelling unit qualifier ensures that each unit in a multi-unit building is individually limited to 2,200 square feet, just as a single-unit dwelling is. The legislature knew how to set a different limit for a different housing type: it did exactly that for cottage clusters at 1,400 square feet, in a separate subsection, Section 2(4)(b)(B). It did not, because there is no reason a dwelling unit in a duplex or quadplex should have a different square footage limit than a single-family home. The draft correctly implements the bill, and the 2,200 square foot per-unit standard should be preserved.

Non-substantive items for the final draft:

- Building height definition. The draft introduces a height measurement methodology that differs from the Oregon Residential Specialty Code. Adopting a standardized measurement that is already known, used, and accepted would provide clarity for both measurement and implementation and reduce costs for builders.
- Cross-references to the renumbered definitions. 0020(3)(b)(B) cites "OAR 660-047-0010 (5)" for the Oregon Homes Development criteria, and 0010(8)(h)(D) cites "section 660-047-0010 (5)." The definition is now 0010(7). Both should be conformed.
- Typographical items. "6600-047" appears in 0020(3)(a) and should read "660-047." In 0010(8)(g)(i), "and it's subject protections" should be corrected. In the 0020 commentary, "sewar" should read "sewer." In 0010(8), "a lot or parcel that areis" should be resolved to "is."

The final rule should consistently implement the legislature's uniform framework

The record shows sustained requests from local government representatives for more flexibility: apply existing local processes, treat the bill's "may" as permission to leave options unimplemented, soften denial procedures, use the model code as the base.

Comments in the record argue that a uniform statewide framework does not work because Oregon's communities are too diverse. The greater problem is the alternative: 241 different sets of complex local requirements, each with its own definitions, procedures, and interpretive layers. When it comes to the standards at issue in this rule, zoning setbacks, design standards, and review processes, cities regulate the same things in different ways. The variation is not in what cities regulate but in how they write the same requirements, which is exactly the complexity this program replaces with predictability. Portland's own

report demonstrates meaningful benefits following implementation of the Residential Infill Project to allow more middle housing. It also raises an interesting policy question: if similar objective middle housing standards had been implemented statewide before 2021, how many additional homes might Oregon have today? But local discretion is not a neutral procedural preference in this context. Discretionary criteria are applied case by case, are unpredictable by design, and translate directly into cost, delay, and abandoned projects. That track record is why this statute exists. The legislature chose a defined category of housing, uniform state standards, non-discretionary review, and mandatory approval. The Department applied that logic when it declined to vary the design and siting standards by dwelling type or jurisdiction size, on the ground that variation "would not be in alignment with the legislative intent of uniformity in Oregon Homes." The same logic governs the broader requests. Deference in this system is earned through clear and objective standards uniformly applied. The rule already contains the right kinds of flexibility: the 10 percent safe harbors, the mitigation menu, and the developable-area carve-in. Each is objective flexibility, available to every applicant on the same terms. I urge the Commission to hold the framework and the standards ceilings, and to decline amendments that reintroduce interpretation, judgment, or case-by-case negotiation under any label.

Conclusion

The enrolled bill and the legislative record reflect a common objective: replacing unpredictable local process with a uniform, objective approval framework that improves housing supply and affordability.

The draft contains the machinery to deliver what the legislature intended, and it also contains the openings through which the old process can return.

The Legislature heard the same arguments now repeated in the rulemaking record, that local governments should retain existing local processes and standards and preserve local discretion, and nevertheless enacted HB 2258. The Commission's role is to implement that legislative choice, not restore through rulemaking the local discretion and subjective standards the Legislature chose to displace. Interpreting the Commission's authority otherwise would deprive the statute of meaningful effect.

Every recommendation in this comment has the same aim, which is to fix the locally administered standards objectively so the predictable approval path the statute promises is the path applicants actually experience. I appreciate the work by the Commission and the Department on this rulemaking, and I would be happy to provide any additional information that would be useful.

Respectfully submitted,

Brianne Margolin

Lake Oswego, Oregon

EXHIBIT A

Proposed Amendments to OAR 660-047 Draft Rules (Version 3, June 2026)

Shown as tracked changes: deletions in strikethrough, additions as tracked insertions. Sections and subsections not shown are unchanged. Cross-references and internal numbering to be conformed. Each change implements a recommendation in the accompanying public comment (Margolin, Aug 5, 2026).

660-047-0010 Definitions

* * *

(3) “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, upper story setbacks, proportions, parapets, rooftop equipment screening, window trim, door design, colors, architectural details, plant placement, signage, awnings and canopies, transparency, pattern, roof form and pitch, grading, fences, walls, exterior lighting, building massing, 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:~~included in an acknowledged Statewide Planning Goal 5 inventory and protected under land use regulations acknowledged to comply with Goal 5. A lot or parcel is not within an environmentally sensitive area to the extent development is permitted with mitigation or otherwise permitted under an adopted ESEE program.

~~(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.~~

* * *

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

* * *

(f) Not covered by slopes averaging more than 15 percent. Average slope is measured over the developable area of the lot or parcel. Slope shall be measured as the increase in elevation divided by the horizontal distance at maximum 10-foot contour intervals. A slope determination prepared by a licensed surveyor or professional engineer using site-specific data consistent with this method controls over a generalized map, GIS, or contour estimate; and

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

* * *

(i) If a lot or parcel is otherwise eligible for an Oregon Homes Development, but within an area identified in paragraphs (A)-(C), development of an Oregon Home is still allowed so long as the developable area is wholly outside of the inventoried area, and its subject protections.

(ii) Eligibility under this subsection is determined by the inventories and maps in effect and acknowledged on the date the application is submitted. An amendment to an inventory or map applies to Oregon Homes eligibility only after acknowledgment through the applicable state process. For a natural hazard area for which a state or federal standard map or methodology exists, including FEMA flood mapping, state landslide hazard mapping, or the statewide wildfire hazard map, the state or federal source governs eligibility, and a locally drawn overlay that exceeds that source does not remove a lot or parcel from eligibility.

* * *

(13) “Usable outdoor space” means one of the following:

* * *

(d) Turf or grass ~~play~~ fields;

* * *

New definitions, to be inserted and numbered in order:

(14) “Objective Standard” means a standard that does not involve discretionary judgment, subjective evaluation, personal preference, or qualitative interpretation by a local government, and that can be applied and verified solely through measurable, quantifiable, or clearly defined criteria. An objective standard must be uniformly applied and must not require interpretation of intent, character, compatibility, aesthetics, or other subjective factors. A standard is not an Objective Standard if any provision of a local code, manual, or policy authorizes a local official to impose additional or different requirements based on a discretionary finding.

(15) “Heritage Tree” means a tree designated by a local government before the date an Oregon Homes Development application is submitted, and only if it meets all of the following criteria: (a) Species. The tree is a Heritage-Eligible Species. (b) Size. For conifers, the tree has a DBH of 36 inches or larger; for broadleaf trees, the tree has a DBH of 30 inches or larger. (c) Age. The tree is estimated to be at least 100 years old, based on species-specific growth characteristics, core sampling, or accepted arboricultural age-estimation methods. (d) Condition. The tree is healthy, as verified by a certified arborist using International Society of Arboriculture standards for structural integrity, disease, and vigor. (e) Location. The tree is located entirely outside the buildable area required to meet minimum density under ORS chapter 197A. A tree that intrudes into that buildable area does not qualify as a Heritage Tree. (f) Objectivity. No additional criteria, including historical, cultural, aesthetic, horticultural, or community significance, may be applied. No tree may be nominated, designated, or evaluated for heritage status during the review of an Oregon Homes Development application or as a condition of it. A tree designated through any local process, or under any local criteria, that does not satisfy this definition is not a Heritage Tree for purposes of this division, and no hearing, consent, or discretionary approval may be required in connection with tree removal as part of an Oregon Homes Development.

(16) “Heritage-Eligible Species” means any of the following long-lived, large-stature species capable of reaching exceptional size in Oregon. Conifers: Douglas-fir (*Pseudotsuga menziesii*); western redcedar (*Thuja plicata*); ponderosa pine (*Pinus ponderosa*); Sitka spruce (*Picea sitchensis*); sugar pine (*Pinus lambertiana*); western hemlock (*Tsuga heterophylla*); giant sequoia (*Sequoiadendron giganteum*); coast redwood (*Sequoia sempervirens*). Broadleaf trees: Oregon white oak (*Quercus garryana*); California black oak (*Quercus*

kelloggii); bigleaf maple (*Acer macrophyllum*); black cottonwood (*Populus trichocarpa*); London plane tree (*Platanus x acerifolia*).

(17) “Nuisance Tree” means a tree of a species listed as noxious or invasive by the Oregon Department of Agriculture or the Oregon State Weed Board, or designated as invasive by a local government.

660-047-0020 Local Government Review Process

* * *

(2) Local governments shall review applications for Oregon Homes Development on an Oregon Homes Lot ~~through completeness check, being no more rigorous than a ministerial review. Administration of this review shall only be to ensure compliance with standards provided in OAR 660-047-0020 through OAR 660-047-0050 and shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment as a land use decision under this division, administered solely to confirm compliance with the standards in OAR 660-047-0020 through OAR 660-047-0050, without public notice, hearing, discretion, interpretation, or the exercise of policy or legal judgment.~~

* * *

(4) A local government shall deem an application submission that does not include information required in this division incomplete. A completeness determination must be based solely on the presence or absence of the items required under section (3), may not involve discretionary judgment or interpretation, and must identify all claimed deficiencies in a single writing.

* * *

(7) Nothing in this section precludes a local government from applying locally administered public facilities plans, 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. Standards and requirements applied under this section must be clear and objective, must be contained in adopted and published documents in effect on the date the application is submitted, and may not reduce the buildable area required to achieve minimum density under this division. The order in which a local government applies these locally administered standards or plans during the application or review period is determined by the local government at their discretion. A local government shall not establish public facilities plans, final engineering plans, or traffic impact analysis requirements uniquely for an Oregon Homes Development that exceeds the process applied to all other residential development of the same type.

(8) A local government may charge applications a review fee ~~compatible to similar development applications~~ limited as provided in this section. Review fees shall recover only the direct costs of processing the individual application. General governmental overhead, capital expenditures, software acquisition and development, information technology infrastructure, department administration, policy development, code maintenance, enforcement activities, and costs attributable to other applications or programs shall not be included. The fee shall not exceed the fee charged for a comparable ministerial residential permit. For any fee exceeding \$500, the local government shall provide a written, itemized estimate before commencing review and a final itemized accounting upon request. The fee must be stated in the local government’s land use code and adopted or amended through the process applicable to the code. These limits apply regardless of the instrument in which a fee is set, including an ordinance, resolution, administrative manual, or master fee schedule.

* * *

New sections, to be inserted following section (10):

(11) Any local requirement that applies to an Oregon Homes Development is subject to this division regardless of where it appears in the local government's codes, ordinances, resolutions, manuals, or policies, except the public facilities and traffic impact analysis processes reserved to local governments.

(12)(a) An application is deemed complete unless, within 10 days of submission, the local government identifies in a single writing all items required under section (3) that are missing. Information not listed in section (3) may not be required, and a request for it does not affect completeness or toll any deadline under this section. (b) On resubmittal, review is limited to the items identified under subsection (a), and any deficiency not identified is waived. An application is deemed complete when the applicant provides each identified item or declines in writing to provide it. (c) A submitted item may not be deemed missing on grounds of sufficiency. Whether submitted materials demonstrate compliance is determined in the decision under section (2). (d) A local government shall issue a decision on a complete application within 20 days. An application on which no decision has issued by the deadline is approved as submitted. (e) The deadlines in this section may be extended only at the applicant's written request.

660-047-0030 Design Standards

* * *

New section, to be inserted following section (4):

(5) Design features not listed in this section may not be regulated for an Oregon Homes Development.

660-047-0040 Siting Standards

A local government may apply only the following siting standards in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot as outlined in this section. Local governments may not use bulk, scale, massing, or compatibility for site layout or dimensional standards. An Oregon Homes development must:

(1) Provide a setback of 5 feet on all sides of the building or the distance required for a ~~proposed~~ recorded utility easement or a utility easement proposed by the applicant as part of the development. For buildings greater than 35 feet in building height, the setbacks must be 10 feet on all sides. Building height is defined in OAR 660-047-0010. All dimensional standards are measured from recorded lot lines and recorded easements in effect on the date the application is submitted. No setback or other dimensional standard may be based on a planned or future right-of-way line, an adopted street plan, or an unrecorded easement.

* * *

New sections, to be inserted following section (4):

(5) Standards related to solar access, shadow impacts, or shading of neighboring properties may not be used to regulate building height, setbacks, building orientation, or site layout for an Oregon Homes Development.

(6) Driveway spacing, street frontage, and dedication requirements may not reduce the ability to achieve the minimum density required under this division or eliminate dwelling units, except as necessary to accommodate public utilities. Fire access requirements for an Oregon Homes Development are those of the Oregon Fire Code, applied as written.

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. Local governments may not impose tree preservation, removal, retention, canopy, protection zone, or mitigation requirements on an Oregon Homes Development beyond the standards in this rule, regardless of the ordinance or code chapter in which local requirements appear. No standard applied to an Oregon Homes Development may be based on, measured by, or conditioned on trees or other features located in the public right of way or otherwise not owned and controlled by the applicant, and right-of-way trees may not be counted toward or against any retention, canopy, mitigation, or credit calculation.

(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~~ A Heritage Tree, as defined in OAR 660-047-0010, 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 outlined in this section 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. A designation applies only if adopted before the date the application is submitted. A local government may not designate a Nuisance Tree species as a protected species;

(b) Not deemed unhealthy by a certified arborist; and

(c) 12 inches or more DBH.

(3) If all of the criteria listed in OAR 660-047-0050 (2) are met, the applicant must conduct one of the following mitigation measures for tree removal, at the applicant's election. A local government may not direct, require, or condition which mitigation measure is used:

(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~~ sited to the site from a regional list of native or climate-adapted species that is not a Nuisance Tree; or

(c) A payment of a fee-in-lieu as established by local ordinance, not to exceed \$300 per removed tree. A fee in lieu may be set only as a flat amount per removed tree, measured by the cost of purchasing and planting one replacement tree of a standard planting size of approximately 6 feet in height or 1.25 to 1.75 inches in caliper, and may not be measured by the DBH or caliper of the removed tree. The fee amount must be stated in the local government's land use code and adopted or amended only through the process applicable to the code. This limit applies regardless of the instrument in which an amount is set, including an ordinance, resolution, administrative manual, or master fee schedule.

New section, to be inserted following section (3):

(4) The determination that a tree is unhealthy under section (2)(b) may be made by any certified arborist, including a certified arborist on the local government's staff through inspection at no charge to the applicant, or through documented photographic review. A local government may not require the applicant to retain a private arborist or commission a site-visit report where a certified arborist has provided a written determination. A written determination by a certified arborist is conclusive for purposes of this division. Nothing in this division limits the removal of dead or hazardous trees under other lawful authority outside an Oregon Homes Development application.

EXHIBIT B

Examples from Adopted Local Codes

Illustrative examples of adopted local code language showing the regulatory mechanisms the accompanying comment recommends the rule address. Each example is quoted verbatim from the jurisdiction's published code, cited as published. The examples show how existing code provisions could operate around the draft rule absent the recommended changes. These examples are illustrative, not a review of any jurisdiction's code.

Example 1. City of Wilsonville, Code of Ordinances, Chapter 4 (Planning and Development) § 4.001, Definitions (as published July 2026):

“Heritage Tree: A tree that, due to age, size, species, quality or historic association, is considered of landmark importance to the community and has been designated as such by the City Council.”

- Illustrates: heritage designation by subjective significance criteria. The draft rule does not define heritage tree, so whatever a city designates, the state rule protects absolutely: under 0050(1)(a), an Oregon Homes approval may not result in the tree’s removal, with no exception, no mitigation option, and no process in which to contest the designation. A subjective local judgment becomes an absolute state prohibition using rules that are neither clear nor objective.
- Supports: the proposed Heritage Tree definition (measurable species, size, age, condition, and location criteria, with no significance test).
- The City of Wilsonville submitted testimony in opposition to HB 2258 (OLIS).

Example 2. City of Portland, Portland City Code § 11.20.060, Heritage Trees (as published July 2026):

“A. Generally. Heritage Trees are trees that because of their age, size, type, historical association or horticultural value, are of special importance to the City. ... D. Designation. The Urban Forestry Commission (UFC) makes a recommendation to City Council as to whether a tree should be designated as a Heritage Tree. A recommendation to designate a tree must be supported by at least six members of the UFC. City Council may designate a tree if it finds that the tree’s health, aerial space, and open ground area for the root system have been certified as sufficient by an arborist. E. Removal of designation. ... City Council may remove the designation if it finds that the designation is no longer appropriate. F. Heritage Tree removal. Heritage Trees may be removed only with the consent of the UFC, except as provided in Subsection I., below. The UFC will hold a public hearing on a request to remove a Heritage Tree. Consent to remove the tree must be supported by at least six members of the UFC.”

- Illustrates: the designation and removal process of a Heritage Tree can be as subjective as the definition itself. 0050(1)(a) would import this type of regime into an absolute prohibition inside a review where 0020(6) forbids hearings and 0020(2) forbids discretion.
- Supports: the proposed Heritage Tree definition, its pre-application timing rule, and its provision that a designation made through any local process has effect only if the tree meets the definition’s measurable criteria, with no hearing, consent, or discretionary approval attaching to removal under this division.

Example 3. City of Portland, Portland City Code § 11.40.060, Tree Replacement Requirements (as published July 2026), and Portland Parks & Recreation Urban Forestry, Title 11, Trees Fee Schedule (effective July 1, 2025):

Code: “B. Payment into Tree Planting and Preservation Fund. When the City Administrator determines that there is insufficient or unsuitable area to accommodate some or all of the replacement trees within the street planting area or site, the City Administrator may require payment into the Tree Planting and Preservation Fund instead of requiring replacement trees. Payment is based on the

adopted fee schedule.” Fee schedule: “FEE IN LIEU. Planting and Establishment Fee in Lieu: \$472.00 per dbh inch. Planting and Establishment Fee in Lieu: \$712.00 per on-site tree. Preservation, Fee in Lieu (Private Trees): Trees ≥12 and <20 inches diameter: \$1,888.00 per tree. Trees ≥20 inches diameter: \$472.00 per dbh inch.” (Table format condensed; amounts and units as published.)

- Illustrates: a fee based on the size of the tree removed is inconsistent with the intent and the alternative. The alternative is planting nursery stock trees, the intent of the fee in lieu is the same, and the fee should be based on the cost of a nursery stock tree (\$150 to \$250), not on the tree removed. In this example, the \$472 per DBH inch fee for one 20 inch DBH tree is \$9,440. Further, the code contains no amount and points to “the adopted fee schedule,” so a person reading the code cannot determine the fee, which can change annually and outside the land use code amendment review and approval process.
- The code separately exempts these payments for affordable housing, a recognition that they burden housing production. The exemption would not reach an Oregon Homes Development, which HB 2258 defines by housing type and size rather than affordability.
- Supports: a flat, capped fee per removed tree measured by replacement cost and stated in the land use code; mitigation as the applicant’s election; the Objective Standard bar on requirements imposed through discretionary official findings.

Example 4. City of Bend, Bend Development Code § 3.2.200 (as published July 2026):

“Trees that are documented by an ISA certified arborist as poor or very poor health in BDC 3.2.200(B)(1)(b) and approved by the Review Authority as such are exempt from this subsection and BDC 3.2.200(E), Mitigation Options. 1. Clear and Objective Track Tree Preservation Requirements. a. At least 20 percent of all priority trees on site must be preserved; or b. At least 25 percent of the total DBH of all regulated trees on site must be preserved; or c. At least five percent of the total DBH of all regulated trees on site must be preserved with mitigation provided in compliance with BDC 3.2.200(E), Mitigation Options.”

- Illustrates: retention floors already sit inside local clear-and-objective housing pathways. A preservation mandate is a removal restriction in different form, and absent the recommended exclusivity sentence naming retention and canopy, a city could contend a floor of this kind stacks on top of the state tree standards.
- The health exemption also shows an arborist’s written determination made non-conclusive by a required official approval, and the section’s payment in lieu is set in the city’s fee resolution (BDC 3.2.200(E)(2)(a)), the instrument pattern of Example 3 in a second jurisdiction.
- Supports: the 0050 exclusivity sentence naming retention and canopy; conclusive certified-arborist determinations; the requirement that fee amounts be stated in the code.
- The City of Bend submitted testimony in opposition to HB 2258 (OLIS).

Example 5. City of Bend, Bend Development Code § 4.3.700, Expedited and Middle Housing Land Division (as published July 2026):

Code: “g. If the original lot or parcel did not previously provide the dedication needed to meet current standards, additional right-of-way in compliance with BDC 3.4.200, Table A, Right-of-Way Widths for Dedicated Public Roadways and Alleys, must be dedicated to the City free and clear of all existing liens and encumbrances.” Standards table, BDC 3.4.200: “Minimum ROW: Arterial, 100 feet; Collector, 80 feet; Local, 60 feet; Alley, 20 feet.” (Table format condensed; widths as published.)

- Illustrates: categorical right-of-way dedications inside an expedited housing pathway, sized by a standards table rather than the impact of the housing. A 5 to 10 foot strip across a 50 foot frontage

removes roughly five to ten percent of a 5,000 square foot Oregon Homes lot before any setback is drawn, while the density obligation is unchanged. Together with Example 4, this shows that requirements of this kind already operate inside streamlined local housing pathways and, absent the recommended limits, could operate inside this one.

- Supports: the limit on dedication and frontage demands that reduce density or eliminate units; measurement of standards from recorded lot lines rather than planning documents and standards tables.
- The City of Bend submitted testimony in opposition to HB 2258 (OLIS).

Example 6. City of Lake Oswego, Community Development Code, LOC § 50.06.001 (as published July 2026):

“Roofline articulation shall be provided in a manner that corresponds with the facade articulation. ... Roofline articulation shall include gables, dormers, offsets in ridgeline, stepped parapets, cornice lines, or changes in roofline elevation. ... A minimum of 60% of all upper story windows shall be vertically oriented, with a minimum vertical to horizontal dimension ratio of 1.5:1. ... [and two of the following:] A change in exterior cladding or detailing and material color between the ground floor and upper floors. Street-facing balconies or decks. A six-ft. minimum building step back on upper floors. ... Design those elements listed below to be complementary in appearance to those buildings or structures upon which they are associated: Awnings. Chimneys. Decks and railings. Doors. Downspouts. Foundations. Lights. Mailboxes. Mechanical equipment. Signs. Stairs. Utility connections and meters. Vents. Windows. Weather vanes, aerials, and other appendages attached to the roof or projecting above the roofline. ... [A]ll windows shall have a window trim that is a minimum of four in. in width.”

- Illustrates: adopted codes regulate, in detail, design features the draft definition does not reach, leaving standards of this kind outside the “may apply only” ceiling of 0030. They also apply subjective tests with no measure to features as small as mailboxes and downspouts.
- Supports: the expanded design standard definition; the provision that unlisted features may not be regulated; the Objective Standard definition.

Example 7. City of Lake Oswego, Community Development Code, LOC § 50.06.001.7, Clear and Objective Housing Standards for Approval (as published July 2026):

“The structures will be constructed with high quality, durable materials, and have visually interesting and attractive building facades that respond to the individual identity and character of Lake Oswego’s commercial centers, employment districts, and neighborhoods. ... The building, site, and landscape elements will create a cohesive design that is contextually appropriate, maintains compatibility between land uses (including visual, sound, and other considerations) ... New buildings shall meet the following massing and compositional standards. The standards achieve the above purpose by requiring buildings to be articulated, avoiding large uninterrupted wall planes; have detailing that creates visual interest with appropriate proportions, rhythm, and scale; utilize attractive, high quality materials that are durable; and employ architectural styles that are contextually appropriate.”

- Illustrates: what a city may label clear and objective. An article titled Clear and Objective Housing Standards requires facades responding to “individual identity and character,” design that is “contextually appropriate” and maintains “compatibility” including visual and sound considerations, and detailing with “appropriate proportions, rhythm, and scale,” under “massing and compositional standards.” Without a state definition, clear and objective means whatever the local code says it means, and character, compatibility, massing, and proportion review continue under the label.
- Supports: the proposed Objective Standard definition; the restored prohibition on bulk, scale, massing, and compatibility standards; the expanded design standard definition.

Example 8. City of Happy Valley, Land Development Code § 16.61.030, Type II Procedure (Administrative) (as published July 2026):

“A pre-application conference is required for a Type II review. ... The application shall: ... [include] a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision making. ... Before making a Type II Administrative Decision, the Planning Official or designee shall mail notice to: All property owners of record within 300 feet of the subject site; All active City-recognized neighborhood groups or associations whose boundaries include the site; Any governmental agency that is entitled to notice. ... The purpose of the notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application before the decision is made.”

- Illustrates: what a city calls administrative review can and does contain discretionary judgment and public involvement. This process requires a pre-application conference, a narrative statement demonstrating compliance with all criteria, public notice to property owners within 300 feet and neighborhood groups, and an opportunity for written comment before the decision. This is the same city that submitted proposed Oregon Homes rule text to the rulemaking record. The example shows exactly why a defined approval path is needed: without one, Oregon Homes applications could be processed through existing administrative tracks that carry the substance of discretionary review under a non-discretionary label.
- Supports: the recommendation to define the Oregon Homes approval as a land use decision with a process the Commission specifies directly, rather than relying on labels like administrative that cities define differently; the proposed Objective Standard definition.
- The same city’s adopted dimensional standards also contradict the concerns raised in its rulemaking comment. Happy Valley, Land Development Code § 16.22.050, Table 16.22.050-2 (as published July 2026): side yard building setbacks for attached single-family (townhouse) may be reduced to zero; maximum setback from street right-of-way is “None” in the SFA and MUR-A districts; maximum building height is 45 feet in SFA and 65 feet in MUR-A; and maximum lot coverage is 75 percent. The city’s rulemaking comment argued that the draft’s 5 foot setback creates safety hazards and that the proposed standards are too permissive. Its own code permits zero side setbacks, no maximum street setback, building heights nearly double the draft’s 35 foot limit, and 75 percent lot coverage. The gap between what a city argues against in this rulemaking and what it already permits locally is itself evidence of why uniform statewide standards are needed.



Oregon Municipal Electric Utilities Association

August 6, 2026

Mr. Allan Lazo, Chair
Land Conservation & Development Commission
635 Capitol Street, Suite 150
Salem, Oregon 97301

RE: Middle Housing Oregon Homes (MHOR) Phase One Rules

Dear Chair Lazo and Members of the Land Conservation & Development Commission,

Thank you for extending the public comment period for the Middle Housing Oregon Homes (MHOR) – Phase One Rules, implementing House Bill 2138 and House Bill 2258. As electric operators we have infrequent interactions with the Department of Land Conservation & Development (DLCD) and just recently became aware of the rulemaking.

The Oregon Municipal Electric Utilities Association (OMEU) is a statewide association representing cities that own and operate municipal electric utilities. Formed by an intergovernmental agreement, OMEU has eleven member utilities. (A twelfth municipally owned utility, the Eugene Water & Electric Board (EWEB), maintains independent representation.) Municipal utilities are governed locally by city councils or utility boards. Unlike Portland General Electric (PGE) or Pacific Power, our rates are not-for-profit and set to cover costs of service, not to earn a rate of return for investors. OMEU is an affiliate of the League of Oregon Cities (LOC).

Electric utilities are key partners providing power to serve new residential developments. We have both residential and commercial service requirements. (I have attached an example from McMinnville Water & Light.) OMEU would like to ensure that our service requirements, which are primarily designed to comply with the National Electric Safety Code (NESC) and Oregon Public Utility Commission (OPUC) safety rules in OAR Chapter 860 Division 24, are not undermined by this rulemaking. The NESC and Division 24 safety standards apply to all electric utilities in the state. While DLCD likely does not intend to interfere with these provisions, we recommend that the DLCD rules put developers on notice that even if eligible for expedited development approval under “Oregon Homes,” utility requirements may deviate from those standards. As Commissioner Bennett suggested at your July 29th Commission meeting that the rules should be informed by the State Fire Marshal, the rules should also be informed by the OPUC Utility Safety, Reliability & Security Administrator.

Under the NESC electric utilities must ensure proper clearances are maintained so that trees do not encroach in the electric space. Failure to maintain clearances can result in catastrophic wildfire starts.

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With respect to building heights, we need to ensure that primary overhead lines are sufficiently away from buildings so that fire equipment will have proper access. Depending on the height of a building and the distance from overhead lines, minimum approach distances to energized conductors, which are regulated based on voltages under the NESC, may impact the placement of windows. For underground utilities, we must ensure that trees are far enough away so that roots will not encroach over time. Our utility design standards and requirements not only ensure safe and reliable utility service but also protect ratepayer investments.

To address our concerns, we suggest the following amendments:

- **660-047-0020 Local Government Review Process:**

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

(1) Local governments must issue a land use 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 check, being no more rigorous than a ministerial review. Administration of this review shall only be to ensure compliance with standards provided in OAR 660-047-0020 through OAR 660-047-0050 and shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment.

(3) A local government shall deem an application for an Oregon Homes Development complete when the applicant provides the following information to the local government:

(a) Site plan and exhibits that address requirements provided in 660-047-0010, 660-047-0030, 660-047-0040, and 660-047-0050;

(b) Building plans that are:

(A) Approved by the Building Codes Division as meeting applicable building code standards; or

(B) Building plans that meet the requirements of an Oregon Homes Development provided in OAR 660-047-0010 (5); and

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

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

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

(6) A local government shall not require a public notice or hearing in reviewing or approving an application for Oregon Homes Development.

(7) Nothing in this section precludes a local government from applying locally administered public facilities plans, including but not limited to public works and utility design standards and requirements, final engineering plans, or requirements resulting from a traffic impact analysis during the development review processes for an Oregon Homes Development application.

Further, nothing in this section precludes the application utility design standards and requirements by non-governmental utilities. The order in which a local government applies these locally administered standards or plans during the application or review period is

determined by the local government at their discretion. A local government shall not establish public facilities plans, final engineering plans, or traffic impact analysis requirements uniquely for an Oregon Homes Development that exceeds the process applied to all other residential development of the same type.

(8) A local government may charge applications a review fee compatible to similar development applications.

(9) A local government shall deny an Oregon Homes Development application if the application 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 660-047-0030 through OAR 660-047-0050.

(10) 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.

- **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. **To the extent no conflict exists with applicable utility design standards and requirements, A-a** local government may apply only the following design standards outlined in this section 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) Garages, carports, or on-site parking or vehicle maneuvering areas are not required. However, 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 that receive vehicular access from an alley; and

(c) Off-street parking areas that are separated from the street lot line by a dwelling.

(3) Storage facilities for trash and recycling receptacles 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 4 feet in height, except as specified in subsection (c) and located no more than 3 feet from the storage facility.

(b) The storage facility must be separated from the street lot line by at least 5 feet.

(c) For lot lines abutting residential properties, the storage facility must either be setback from the lot line by at least 5 feet, or the screen facing the lot line must be at least 6 feet in height.

(4) A local government shall approve an Oregon Homes Development application if the proposed site plan varies not more than 10 percent from the ~~numerical~~ design standards described in this section.

- **660-047-0040 Siting Standards:**

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. ~~To the extent no conflict exists with applicable utility design standards and requirements, A-a~~ local government may apply only the following siting standards in reviewing an application for an Oregon Homes Development on an Oregon Homes Lot as outlined in this section. An Oregon Homes development must:

(1) Provide a setback of 5 feet on all sides of the building or the distance required for a proposed or existing utility easement. For buildings greater than 35 feet in building height, the setbacks must be 10 feet on all sides. Building height is defined in OAR 660-047-0010.

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

(3) Provide outdoor area that is beyond lot area counted towards setbacks comprised of at least 15 percent of the gross site area 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 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;

(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.

(4) ~~To the extent no conflict exists with applicable utility design standards and requirements, A~~ a local government shall approve an Oregon Homes Development application if the proposed site plan varies not more than 10 percent from the setbacks or ~~outdoor area characteristics~~ ~~numerical~~ requirements within this section.

- **660-047-0050 Tree Standards**

~~To the extent no conflict exists with requirements prescribed for operators, as defined in ORS 756.010, with standards prescribed by the most recently adopted version of the National Electrical Safety Code, by the American National Standards Institute found in OAR Chapter 860~~

Division 24, a 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 Homes 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 outlined in this section 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) 12 inches or more DBH.

(3) If all of the criteria listed in OAR 660-047-0050

(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; or

(c) A payment of a fee-in-lieu as established by local ordinance.

We understand the imperative to expedite housing production and are committed to doing our part to make that a reality. We are proud of our existing partnerships with developers in our communities. However, we urge DLCD to work with other state agencies, like the OPUC and BOLI, to ensure that efforts to expedite development review via statewide standardization do not thwart other important state objectives meant to keep the public and workers safe, provide reliable service, and keep utility rates affordable.

Thanks again for the opportunity to comment. Please reach out if you need further details. I can be reached at (971) 600-6976 or at jenniferjoly@omeu.org.

Sincerely,

/s/ Jennifer Joly

Jennifer Joly, Director

Oregon Municipal Electric Utilities Association

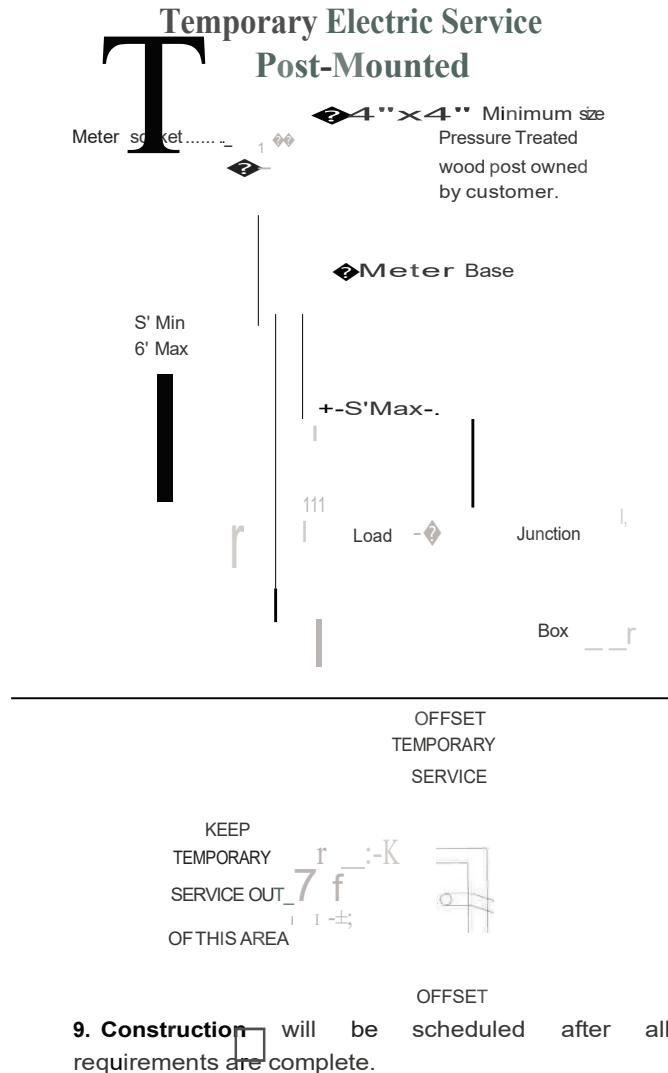
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9 Things You Need to Know

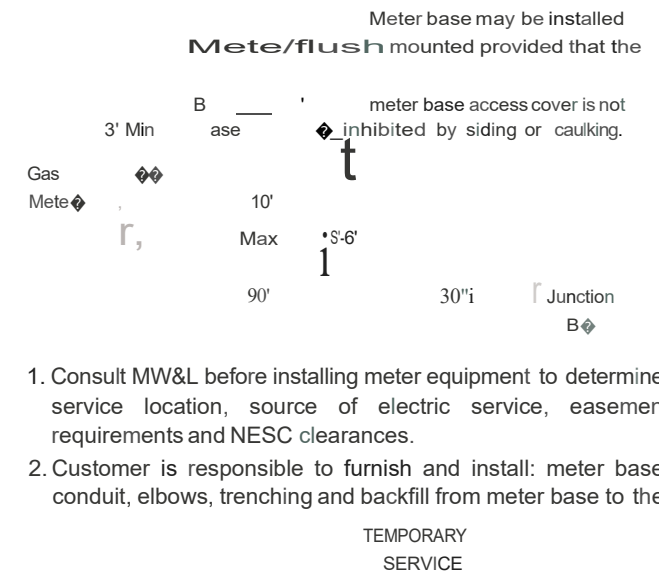
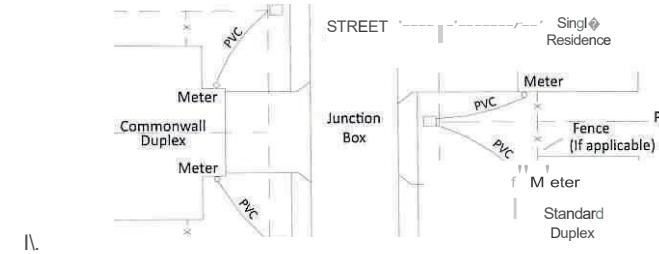
Prior to Receiving Service

The following information applies to all specifications included in this brochure. All items must be completed prior to McMinnville Water & Light energizing your service.

- 1. Fill out** the MW&L New Construction Residential Service application.
- 2. Pay** \$150 Design Fee for each request if applicable. This will be credited to your account if you proceed with construction within 12 months.
- 3. Contact** MW&L's Field Engineer to schedule an on-site meeting.
- 4. Call** the Oregon Utility Notification Center before you dig at 1-800-332-2344 or dial "811". Mark with white paint where you want to dig. You must call two working days prior to digging.
- 5. Contact** your electrician to setup temporary service and schedule inspections with the following governmental agency:
 - Obtain an electrical permit and inspection for service from Yamhill County by calling 503-434-7516. An approved inspection sticker must be displayed on meter base prior to energizing service.
- 6. Conduit Inspections** must be completed and approved by MW&L prior to backfill. 24 hour notice is required. Please call 503-472-6919.
- 7. Manufactured Homes**, please contact the City of McMinnville and Yamhill County for permits and inspections.
 - It is the customer's responsibility to contact MW&L to schedule installation of services after the City of McMinnville and Yamhill County inspections have been completed.
- 8. Overhead** Temporary and Permanent services will be allowed only where underground services are not technically feasible. Contact MW&L's Engineering Department with questions.



Underground Residential Service to Junction Box



- Consult MW&L before installing meter equipment to determine: service location, source of electric service, easement requirements and NESC clearances.
 - Customer is responsible to furnish and install: meter base, conduit, elbows, trenching and backfill from meter base to the
- Contact MW&L before installing meter equipment to determine service location & National Electric Safety Code (NESC) requirements.
 - Per National Electric Code (NEC), customer shall furnish and install meter base, and a minimum 10' of conductor extending from the meter base.
 - Meter base height shall be 5'-6' above grade to

center of meter socket.

- MW&L will terminate the customer supplied conductor in the junction box (j-box).
- Yamhill County approved inspection sticker shall be displayed on meter base prior to energizing service.

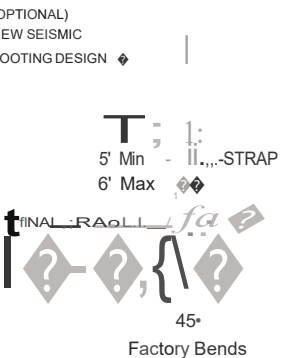
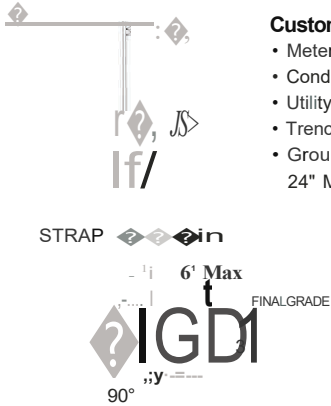
source of electric service (typically a PVC stub located at rear of junction box). Customer is to ensure that conduit remains unobstructed.

3. MW&L shall inspect conduit installation prior to backfill. A 24 hour notice is required. Please call 503-472-6919.
4. Acceptable meter bases are manufactured in accordance with EUSERC requirements. Meter base height shall be 5'-6' above finished grade to center of meter socket. Electric meter shall be located within 10' of the front corner of the garagewall. A typical service will not exceed 150' from source of electric service to the meter base.
5. **Conduit:** 3" electrical-grade Schedule 40 gray PVC. **Depth of Bury:** Minimum of 30" below finished grade to top of conduit. **Elbows:** 36" radius PVC. **Degrees of Bend:** 270' maximum.
6. Joint Trench: MW&L requires a minimum of 12" of separation **from other utilities.**
7. Access to meter base must be maintained.

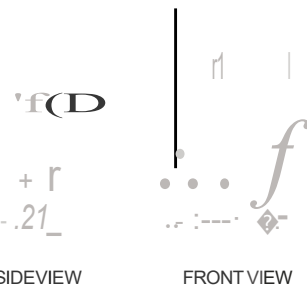
Underground Service Meter Base Mounting Options

Customer Shall Furnish & Install:

- Meter socket enclosure (Underground Type)
- Conduit 3" Schedule 40 PVC
- Utility easement when required
- Trench excavation and backfill
- Grounding per NEC
- 24" Minimum radius sweep



FLUSH MOUNT



SIDEVIEW

FRONT VIEW

1. Meter base and conduit must be securely attached to the structure. Meter socket and conduit must be plumb when inspected. MW&L will determine the exact location for the meter. 2" x 4" back supports are required.
2. Ground in accordance with the currently adopted issue of NEC (Article 250 Grounding).

NOTES:

- A. No bends will be allowed in the conduit riser between the meter base and the underground sweep. If local codes do not allow conduit in the foundation and/or footings, a surface mounted meter must be installed.

New Water Service

MW&L provides service within the McMinnville City Limits

- **Water Meter Size:** The City of McMinnville determines the estimated water demand. MW&L will size the meter accordingly.
- **Pre-Paid Water Meters:** Water meters in some subdivisions have been pre-paid. Contact MW&L for details.
- **Upgrading Pre-Paid Water Meters:** Costs are associated with water meter upgrades. Please contact MW&L to determine costs.
- **Non Pre-Paid Water Services/Meters:** Contact MW&L to determine service location and costs for installation.
- **Pressure Reducer Valve (PRV):** All homes in the City of McMinnville below 188' of elevation are required to have a PRV. This helps to regulate the proper amount of water pressure entering your home. PRV's are customer owned and maintained. Please contact the City of McMinnville for permit and inspection requirements.
- **Backflow:** All irrigation and some domestic services require backflow protection. Contact MW&L to find out what type of backflow assembly your service will need. Contact the City of McMinnville Building Department for permits and inspection requirements.

Please note:

- Backflow assemblies must be tested at time of installation.
- Annual testing is required on backflow assemblies.
- For additional requirements, please contact MW&L.

CUSTOMER IS RESPONSIBLE FOR ALL PLUMBING PAST THE METER

B. The service entrance meter must be installed with left side of entrance knock-out.

Revision 2/2022

McMinnville Water & Light

New Construction

Residential



855 NE Marsh Lane • PO Box 638
McMinnville, OR 97128
Monday - Thursday
Office: 7:30 am - 5:30 pm
Crews: 7:30 am - 5:00 pm



City of Eugene

Date: August 7, 2026

Chair Lazo and Commissioners:

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

We appreciate your service, as well as the work of the Department of Land Conservation and Development (DLCD) and the Rules Advisory Committee (RAC) leading to this point.

Eugene needs nearly 26,000 dwellings over the next 20 years according to the 2026 Oregon Housing Needs Analysis. Therefore, improving processes to increase housing production is a critical priority for our community and the City of Eugene's housing planning work. Unfortunately, we believe that the current draft of the Oregon Homes Rules is problematic and contains a number of technical issues, as outlined below.

We encourage the Land Conservation and Development Commission to not adopt the rules as currently drafted, and to direct DLCD staff to take additional time to refine this draft so that the rules are clear and implementable, with positive local outcomes. This would support cities in their efforts to improve processes for increasing housing production.

HB 2258 only requires the Commission to adopt *initial* rules implementing section 2 of the 2025 Act *on or before January 1, 2027*. This provides some flexibility in what may "initially" be adopted. While we understand that time is of the essence to address the housing crisis, additional time devoted to this rulemaking effort could: (1) allow technical issues to be properly vetted and provide enough time for further drafting of clear and locally implementable rules; and (2) allow local jurisdictions to continue their work implementing other recent state-required changes before embarking on further changes.

Technical Issues

Listed below are a number of technical issues and questions regarding the draft rules, warranting further attention:

- OAR 660-047-0020 (1) to (3)¹. These procedural terms need to be clarified and reconciled. The draft rules require that a "land use decision" be issued, while also

¹ Where OAR references are included, they refer to the Notice of Proposed Rulemaking

indicating that review is “no more rigorous than a ministerial review.” Understanding that the ministerial process is the intended procedure, the term “land use decision” should be reconciled with the definition of “land use decision” at ORS 197.015 and its associated requirements.

- Certain terms need to be defined or clarified, especially if those terms have specific meaning per definitions elsewhere in state law or (when permissible) by local code. Some examples that we have identified thus far include:

- OAR 660-047-0010:
 - (4): “Developable area...” means the space on the lot not including setbacks, public utility easements, right of way, and any required open space. Is that delimited? At OAR 660-0047-0040(3), required open space is *at least* 15 percent. Is “required open space” that which is required by OAR (or local code), or is it also defined by the open space area proposed by the developer if larger than 15 percent??
 - (7)(b): “Buildable area” is not defined.
 - (8)(a): “Lawfully established units of land” is not defined and may require discretion to evaluate. Is this term synonymous with the definition at ORS 92.010? May a definition within a local zoning ordinance apply?
 - 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%” is 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?
 - (8)(g)(B): “Open space or scenic areas” is not defined. Is this intended to mean Goal 5 open space and scenic areas?
- OAR 660-047-0030 Design Standards:
 - (2)(a): “Accessible and adaptable” should be defined and for consistency, it would be helpful if the definition matches that within the Oregon Housing Needs Analysis (OHNA) rules and Model Housing Code.

- 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.
- Moreover, unclear terms and standards should be made clear and objective, given that the process shall not be discretionary and can be no more rigorous than a ministerial review (OAR 660-047-0020(2)). Also, does the ORS 197A.400 "clear and objective" requirement apply to Oregon Homes Developments within UGBs? To the extent that discretionary terms are permissible, lack of public notice for a decision including discretionary terms could invite appeals to the Land Use Board of Appeals.
- At OAR 660-047-0010(8), definition of Oregon Homes Lot, there is an "and" conjunction between subsections (8)(f) and (g), and not between (g) and (h). Was this purposeful, and if so, what is the purpose/result of the conjunction being absent between (g) and (h)? Is (h) intended to be its own category of "Oregon Homes Lot" distinct from one that qualifies via (a) through (g)?
- It is not clear whether parcels that contain cultural resources, such as historic City Landmark properties and those on the National Register of Historic Places, are included as eligible "Oregon Homes Lots." If they are included, how does this function with Goal 5 requirements?
- Regarding OAR 660-047-0040(2), it would be helpful for the rules to address a minimum density standard, applicable only when minimum density is not already specified in local zoning. Since an Oregon Homes Lot can be up to 20,000 square feet and an Oregon Homes Development allows lower density housing types (e.g. single unit dwellings), absent minimum density, there is a potential for low density residential units to be constructed according to reduced development standards (compared with local code), thereby reducing land available for potential re-development or more dense development on the lot.
- Regarding OAR 660-047-0020(7), does "nothing in this section precludes a local government from applying..." extend to the requirement to only apply ministerial procedures? Generally speaking, the land division process includes a tentative and/or conditional land use decision which typically provides conditions related to public infrastructure improvements (e.g. street connectivity, street and utility improvements, stormwater improvements, pedestrian improvements, etc.). Oregon

Homes allows up to 11 units, and it is unclear whether public infrastructure requirements can still be required through the ministerial procedure. This raises questions regarding the provision of adequate infrastructure in the long term if local governments cannot effectively condition improvements necessary and commensurate for development absent an appropriate land use review mechanism to do so.

- Similar to the above bullet, the impacts of this issue could extend to future UGB expansion areas with compounding impacts on future neighborhoods.
- The definition of “Oregon Homes Lot” includes properties in the Urban Growth Boundary that are zoned for residential uses, but without addressing whether the property is annexed, unlike the inclusion of “incorporated or urban unincorporated lands” language in HB 2138 Section 3 (3). Eugene has a process for annexation which requires demonstration of sufficient available infrastructure. The draft rules introduce questions regarding the relationship between Oregon Homes and orderly annexation, as well as the provision of sufficient infrastructure at time of development and in long term.
- Additionally, while this letter primarily addresses the Oregon Homes portion of the rulemaking, there are also technical issues related to the proposed changes to OAR 660-046-0020's definition of "Cottage Cluster," specifically with: "(c) Each have a small footprint or floor area such that units have an average of 1,400 square feet." This language results in ambiguity as to whether the 1,400-square-foot limit is based on footprint or floor area, which could result in drastically different outcomes. Also, as drafted, it implies that the cottages must be exactly 1,400 square feet (not a maximum of). We suggest using the language in the state's Housing Model Code, which essentially allows a maximum (average) 900-square-foot footprint for two story cottages and a maximum 1,400-square-foot footprint for one story cottages.

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 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 will add 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

We encourage the Land Conservation and Development Commission to not adopt these rules as written, and to direct Department of Land Conservation and Development staff to take the time necessary to address the technical issues identified above, as well as issues identified by other local jurisdictions, so that the rules are implementable by cities across the state.

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

Sincerely,

A handwritten signature in black ink that reads "Terri Harding". The signature is written in a cursive, flowing style.

Terri Harding, AICP
Planning Director

From: [CARPENTER Sean * DLCD](#)
To: [CAUDEL Ingrid * DLCD](#)
Subject: Comment Submission: MHOR Homes Phase One
Date: Friday, August 7, 2026 2:48:10 PM

City of La Pine

To view the PDF of this rulemaking comment, please visit the [SharePoint Library here](#).

Name: Geoffrey Wullschlager

Email: gwullschlager@lapineoregon.gov

Rule: MHOR Homes Phase One

Organization or affiliation (optional): City of La Pine

Comment: Chair Lazo, and distinguished Member of the Commission: These comments are being submitted on behalf of the City Council, of the City of La Pine. As one of Oregon's fastest growing cities, we collectively appreciate the need for housing expansion across the state. In this capacity, we can also speak to the heavy burden put upon a small rural community in administering rapid development. We have seen such a swift influx of new housing that social programming, public safety, and long-range planning have all taken a back seat to maintaining adherence to requirements under the current standards of ORS 197; as an example, we just declined two long range planning grants due to the prioritization of short-term planning needs realized most notably through consistent subdivision and partition applications. We are very unsure how we will be able to adjust and meet added burdens put upon our small rural municipality of 3,200, that serves a larger unincorporated population of 13,000+ spread across three counties. This regional population looks to the city of La Pine for recreational programming, public health and medical accessibility, commercial and economic development opportunity; and area stability. We also provide wastewater treatment for the larger population as the majority of area residents and their respective septic service providers use our facilities for processing. As such, we are happy to continue in our de-facto role as a regional seat of sorts, but we cannot fathom prioritizing a new outside interest that shares no long-range responsibility to the community, nor represents any inherent "home grown" interest from within. This policy direction not only flies in the face of the intent of Home Rule Authority, which is the underpinning of the independent Oregon spirit, but serves to precipitate further civil disillusionment (a growing problem across Oregon), and challenge which will land at the feet of local governments, not state agencies or lawmakers. With this, we implore you to reconsider the "May" vs. "Shall" intent of the legislation informing your rulemaking. As proposed by the League of Oregon Cities, the amendments contained in their July 29, 2026, letter to LCDC should guide rulemaking going forward with respect to OARs 660-047-0020, 660-047-0030 and 660-047-0040. We also support the proposition of further development of statewide standards, as the current rules as proposed attempt to create a one size fits all application. This carelessly does not take into account the many years of nuance and individuality built into our communities under Home Rule Authority and attempts the undoing of decades of protocol with a catch all approach that defies conventional wisdom to facilitate political expediency. This is furthered by the suggestion of the "third path" in the proposed rules, which only ingratiates this denial of local authority and regulated sovereignty promised to Oregonians beginning in 1958. In closing, the City of La Pine understands and appreciates the emergency of housing scarcity thrust upon the state. And we further support thoughtful and measured discourse, legislation, and rulemaking that attempts to address the most pressing matters before the collective constituency of Oregon. But, if history is any indicator, and regardless of political disposition, policies and rules that fail to consider long

range effects for the benefit of short-term solutions, seldom yield the preferred outcomes.
Sincerely, Geoff Wullcshlager City Manager Cit of La Pine



Office of Mayor Kim Morris

City of McMinnville

August 7, 2026

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

RE: Oregon Homes Draft Rules

Dear Chair Lazo and Members of the Commission:

The City of McMinnville opposes the Oregon Homes Draft Rules as currently proposed.

Oregon is made up of 241 incorporated cities—large and small, urban and rural—and no two are exactly alike. That diversity is part of what makes Oregon such a special place to live. Our communities have different histories, economies, infrastructure, development patterns, and identities. Our land use system has historically recognized those differences by establishing statewide goals while allowing communities to determine how best to achieve them.

The proposed Oregon Homes rules go too far in changing that balance.

Rather than simply removing barriers to needed housing, these rules establish what amounts to a statewide residential zoning code, including design and development standards that every community would be required to accept. In doing so, they substantially diminish the ability of individual communities to determine how new housing should fit within their existing neighborhoods and built environment.

McMinnville strongly supports the state's goal of producing more housing. We have demonstrated that support through our actions.

We amended our Urban Growth Boundary to accommodate future residential needs. We amended our development code to allow all middle housing types on lots throughout our residential zones, with the exception of the zone specifically reserved for multifamily development. We allow tiny homes on small lots and single-room occupancy housing throughout our community. We allow middle housing units to be attached or detached. We even changed the terminology in our code to focus on housing units rather than "family" housing.

We made these changes because McMinnville wants to be a good partner with the State of Oregon. We recognize the need for more housing, greater housing choice, and more efficient use of land within our Urban Growth Boundary.



But we also did something else that is fundamental to Oregon's land use planning tradition: **we involved our community in deciding how to accomplish those goals.**

We hired consultants. We invested hundreds of hours of staff time. Most importantly, we engaged our residents in thoughtful conversations about how to accommodate more housing and greater density while maintaining the qualities of McMinnville that make people want to live here in the first place.

Isn't that what Oregon planning is supposed to be about?

Statewide goals coupled with local planning. Community engagement. Local comprehensive plans that reflect a community's vision for its future.

These draft Oregon Homes rules risk replacing that model with a one-size-fits-all approach.

Our residential neighborhoods have an established rhythm and development pattern that contributes to McMinnville's sense of place. Our standards respond not only to aesthetics, but also to the practical realities of living in our community.

McMinnville does not have a robust public transit system. Many of our lower- and moderate-income households rely on two vehicles because household members work different shifts or commute to jobs throughout the region. Many residents depend on pickup trucks, work vehicles, and other vehicles necessary for their livelihoods. Our parking and driveway standards reflect those realities.

Our infrastructure presents different constraints as well. In an effort to use land efficiently, many of our streets have narrower rights-of-way, with utilities located within a 10-foot public utility easement along the front of residential properties. A statewide five-foot front setback creates very practical questions for communities such as ours: Where do those utilities go? How do we accommodate infill development within an infrastructure system that was designed around different assumptions?

Those are not theoretical questions. They are local planning and infrastructure issues that communities need the ability to solve.

We recognize that statewide uniformity may make some housing easier or less expensive for developers to build. But housing production cannot be the only measure of success.

In McMinnville, we talk about building **great neighborhoods with enduring value**. That means thinking not only about how quickly a home can be permitted or the economics of its first sale. It means thinking about the people who will live there, the neighborhood they will become part of, and the quality of life that neighborhood will provide today, tomorrow, and decades from now.

And we know that local flexibility can work.



Since changing our codes to allow middle housing, we are seeing middle housing infill development occur in McMinnville. New housing is fitting into established neighborhoods while adding housing choices and contributing to, rather than replacing, the character and sense of place of our community.

That is exactly the outcome Oregon should want.

Before adopting a single set of residential standards for every community in Oregon, we ask the Commission to allow the significant housing reforms already enacted by the State and implemented by local governments time to work. Evaluate the results. Determine where genuine barriers to housing production remain. And then address those barriers in a targeted way.

Do not eliminate local choices simply because uniformity is easier.

There is an important difference between establishing statewide housing goals and prescribing the physical form of every Oregon community.

Oregon's land use system has succeeded because the State establishes important statewide objectives while communities engage their residents and determine how those objectives should be achieved locally. That partnership has allowed Oregon to grow while preserving the individual identities of the places that make up our state.

McMinnville has embraced its responsibility to provide more housing. We ask the State to recognize that responsibility should come with the ability to make thoughtful local choices about how that housing becomes part of our community.

Oregon is not a one-size-fits-all state. Our housing regulations should not make it one.

The City of McMinnville respectfully asks the Commission to reconsider the Oregon Homes draft rules and preserve some meaningful local discretion over residential development and design standards.

Thank you for the opportunity to provide testimony.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kim Morris".

Kim Morris
Mayor, City of McMinnville
C: 971.901.2084

City of Sandy

August 7, 2026

Land Conservation & Development Commission
635 Capital St., Ste. 150
Salem, OR 97031

Re: Oregon Homes Draft Rules

Chair Lazo, Members of the Commission,

The City of Sandy (City) appreciates the opportunity to provide comments on the rulemaking process for Oregon Home Rules. The City shares many of the same concerns that you have heard from other cities throughout the state, as well as the letter that was sent by the League of Oregon Cities in late July -- the proposed rules lack the nuance that is needed to serve our shared goals for Oregon.

“May” vs “Shall”

There is an inherent conflict between these rules and the legislation. The legislation says “may” in many cases and the rules have interpreted this as “shall,” contrary to the legislative intent and what was conveyed to cities during the legislative process. The legislation gives LCDC the option to decide if you want to regulate all siting standards; LCDC is not being given that option in this rulemaking process, and we encourage you to reclaim your statutory authority.

The “shall” option presented to you does not make sense on the ground, because there is such a high level of variation in infrastructure and public utilities in individual communities across the state. What may work in a larger, more populated city will not have the same implementation or success in smaller, more rural communities. A statewide mandate of a uniform system will fail Oregonians; it will limit transportation options for Oregonians in small communities, such as the City of Sandy, disadvantage those living in communities that do not have existing sidewalk, and more.

Like state government, local governments are asked to balance all things and hold all things equally. We must balance public safety, development, efficient land use, infrastructure, community interests, and more. The draft Oregon Homes rules do not strike that balance. They place housing development over all other needs the City must manage for, ignoring local regulations that are aimed at public safety and community livability.

Standardized Statewide Framework

While the rules attempt to clear a big landing pad for potential Oregon Homes 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 the City’s public works department, public safety department, and utility providers.

These rules assert that those standards are whims and that there should be a set statewide standard with exceptions for public utilities and emergency services. A developer could meet all the Oregon

Homes standards and still not be approved because their plan did not correctly account for fire access or public utilities. The City does not want a process created that is hard to navigate for developers, leading to costly delays and frustration for all parties involved.

The Third Path

The legislation explicitly mentions two paths for building plan review through the Building Codes Division (BCD), either by selecting a pre-approved plan by BCD or by submitting your own plan to BCD as a developer. It is clear that the first two paths were intended by the legislation in HB 2258 Section 5(1), but it is unclear as to whether a third path was originally articulated to the legislature or by the legislature.

A third path is created in the rules, allowing developers to come to the City to get a plan pre-approved and get the benefits of the Oregon Homes program in our City. The third path represents a wholesale overturning of the City's local zoning codes, not tied to the actual programmatic requirements of Oregon Homes of the pre-approved building plan. The City would advocate its removal due to its large-scale impact on local development codes and lack of statutory support.

The City of Sandy appreciates the opportunity to provide comments and for your consideration.

Thank you,

Tyler Deems
City Manager
City of Sandy





JEFFERSON COUNTY COMMUNITY DEVELOPMENT

85 SE D STREET | MADRAS, OREGON 97741

PHONE: 541-475-4462 | FAX: 541-325-5004

July 31, 2026

Jefferson County

Chair Allen Lazo

Land Conservation and Development Commission

635 Capitol St. Ste 150

Salem, OR 97301

Re: Jefferson County comments on Draft Rules for Middle Housing Oregon Homes (MHOR)
Phase One.

Via email: housing.dlcd@dlcd.oregon.gov

Chair Lazo & Members of the Land Conservation and Development Commission,

Thank you for the opportunity to comment on the draft rulemaking effort pertaining to the MHOR Phase One.

Jefferson County has reviewed the proposed rules in detail and have concerns about the nature and presentation of the proposed rules before the Commission. At this time, we appreciate the opportunity to express our concerns and offer solutions accordingly for future phases of rulemaking.

As a general rule, Jefferson County supports 'black box planning' wherein the State provides an end-goal, and we as subject matter experts and as a community chart our path forward to achieve that goal. Over-prescription creates a regulatory challenge for resource strapped rural communities and, in many cases, makes rules more restrictive or arduous for developers than our existing rulesets.

Division 46 Commentary Generally: Correcting the language to "single unit dwellings" is a fantastic addition that reflects the regulatory landscape of local jurisdictions, making conversations across the counters easier.

Division 46 Commentary Specifically: [See attached review]

[continued on next page]

Division 47 Commentary Generally: Section 2, § (2) of HB 2258 states: *“The Land Conservation and Development Commission may adopt rules requiring local governments to issue a land use decision... approving the development of specified residential development types... under specified conditions.”* The language includes the ability to provide a menu of options and allow local jurisdictions to select what works best for their unique circumstances.

Division 47 Commentary Specifically: [See attached review]

Jefferson County would like to be a partner in the rulemaking process, ensuring that rules are both implementable and serve the public interest both here in Jefferson County and throughout the State. Rural voices need a seat at the table, and we appreciate this opportunity to respond to the proposed rulemaking.

AICP Code of Ethics and Professional Conduct Section A §1: People who participate in the planning process shall continuously pursue and faithfully serve the public interest.



Derek Payne, AICP
Community Development Director
Jefferson County, OR

Attachment A: Specific Reviews of Div. 46 & 47

OAR 660-046-

660-046-0020 (2)(a): Delete *“with no limitation on total number of cottage cluster units”* as it is not included in the enabling legislation.

660-046-0020(7): Add *“(i) Other Areas Protected by an acknowledged Comprehensive Plan provision or Policy”*

OAR 660-047-

660-046-0010 (1): Change “Building height” definition to match ORSC definition (provided here for convenience)—*“The vertical distance from grade plane to the average height of the highest roof surface.”*

660-046-0020: The enabling language of this subsection states ‘may specify’ and does not require specificity.

660-047-0020 (3)(b)(B): references 660-047-0010(5) which discusses natural hazard standards, not building plan standards.

660-047-0020 (3)(c): requires a tree mitigation plan—Currently in Jefferson County does not require a tree mitigation plan and therefore is more restrictive and will slow review.

660-047-0020 (6): delete “or hearing” as extracurricular language.

660-047-0020 (7): delete “for an Oregon Homes Development Application.” In first sentence.

660-047-0020 (9): delete “Oregon Homes Development”

660-047-0030 Generally: This section could wholesale be deleted. It is more restrictive than anything in my jurisdiction and is not broadly applicable to the State as a whole. In the purpose section of this section it is stated that this is for “safety and function” and we are failing to understand how ‘fac[ing] a common area that is adjacent to the street;’ is a necessary function that promotes needed housing.

660-047-0030 (1): Hyper-prescriptive and extracurricular. Does not make sense in rural areas or communities.

660-047-0030 (2): Preferential, overly prescriptive and extracurricular. Should be community design standard.

660-047-0030 (3): Preferential, overly prescriptive and extracurricular. Should be community design standard.

660-047-0040 Generally: Implementability and purpose of this section is questionable.

660-047-0040 (1): States if a building is over 35 'the setback must be 10 feet' instead of the technically sufficient "for buildings greater than 35 feet in height, the minimum setback is 10 feet on all sides." This section should be inclusive of if any part of the building exceeds a 35 foot tall plane of existence, not the defined 'building height' which is a different technical standard than should be applied here.

660-047-0040 (2): Change to "Meet the density requirements of the applicable comprehensive plan or land use regulations for the lot or parcel." Circumventing Comprehensive Plans that have been acknowledged by the State and adopted by the communities is poor form. Bring back periodic review and change the threshold but carte blanche disregarding community will runs contrary to Goal 1.

660-047-0040 (3): This definition is not clear. It needs either reworking or deletion.

660-047-0050 Generally: This section should not be broadly applicable to the entire State. Should be up for local adoption. Suggest changing to "may" instead of "must require" this is more restrictive than existing local codes.

Heather Richards

August 7, 2026

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

RE: Oregon Homes Draft Rules

Dear Chair Lazo and Members of the Commission:

My name is Heather Richards, and I am the Community Development Director for the City of McMinnville, where I have served for the past ten years. Prior to coming to McMinnville, I served for approximately ten years as the Community Development Director for the City of Redmond.

I want to be clear that I am not submitting this testimony on behalf of the City of McMinnville. I am submitting it through the lens of a professional planner who has spent 20 years leading local planning programs in Oregon and who cares deeply about the future of Oregon's communities and our land-use planning system.

I thought long and hard about whether to provide this testimony. I recognize that housing has become an intensely political issue in Oregon. But I also operate under a professional Code of Ethics that asks planners to consider the long-term consequences of the decisions we make today. Given the magnitude of the changes being contemplated through the Oregon Homes rulemaking, remaining silent did not feel appropriate.

I am deeply concerned that we are making a mistake.

We Can Address Oregon's Housing Crisis Without Abandoning Local Planning

I understand the severity of Oregon's housing crisis, and I agree that we need solutions.

For the past five to ten years, I have led McMinnville through difficult community conversations about changing our planning processes, development regulations, and housing programs to respond to that crisis. Those conversations have not been easy. At times, I have been criticized both publicly and privately for advocating for changes that some members of our community fear.

Nevertheless, I have continued to advocate for those changes because producing more housing—and more types of housing—is necessary.

Until recently, however, I believed there remained an important compact between the state and its cities when it came to planning: **the state establishes the objectives Oregon needs to achieve, and local communities determine how best to achieve those objectives within their particular circumstances.**

That relationship creates room for an essential local conversation:

How do we make this work here while still achieving the state's objectives?

That question is at the heart of good planning.

The Oregon Homes rulemaking appears to be taking us in a fundamentally different direction.

Rather than establishing housing outcomes and requiring cities to achieve them, these rules increasingly prescribe the development standards themselves. In doing so, the state is moving toward what is effectively a statewide residential development code that supersedes locally developed regulations.

That is not simply another housing mandate.

It represents a fundamental change in the relationship between state and local land-use planning in Oregon.

Oregon's Communities Are Not Interchangeable

Oregon's land-use planning system has historically recognized something important: statewide goals can coexist with local solutions.

McMinnville is not Redmond. Redmond is not Portland. Portland is not Pendleton, Ashland, Newport, Baker City, or Ontario.

Our communities have different histories, geography, infrastructure, natural resources, development patterns, housing markets, economies, and aspirations.

Those differences matter.

They are also part of what makes Oregon's communities distinctive places in which people want to live.

The strength of Oregon's planning system has been its ability to establish statewide objectives while allowing communities, through comprehensive planning and meaningful public engagement, to determine how those objectives should be implemented locally.

We should be extremely cautious before replacing that model with uniform development standards applicable across communities that are anything but uniform.

The question before us should not simply be:

Will these rules make housing easier to build?

It should also be:

What kind of communities will these rules produce over the next 50 to 100 years?

Because that is the time horizon within which planners must work.

Housing Production Is Not the Only Measure of Success

In McMinnville, we adopted Great Neighborhood Principles to guide our planning work. They begin with a simple premise:

Everyone deserves to live in a great neighborhood with enduring value.

We believe enduring value comes, in part, from neighborhoods that provide a variety of housing types serving a variety of household incomes, generations, and needs.

Housing production matters enormously. But the number of units produced cannot be the only measure of success.

We also need to ask whether we are creating neighborhoods where people will want to live decades from now; whether those neighborhoods will remain adaptable and resilient; whether they will foster community and encourage continued investment; and whether they will contribute positively to the communities around them.

Development regulations adopted today will shape Oregon's built environment for 50, 75, or 100 years—sometimes longer.

That permanence imposes an obligation on us to be thoughtful.

Urgency cannot become a substitute for planning.

We Have Seen the Consequences of Planning Solely for Production

When I attended college in New York City, I regularly drove past the Bronx River Houses, a large housing development constructed in the early 1950s.

The objective behind developments like it was understandable and important: provide large quantities of housing for people who needed it.

But the planning philosophy of that era too often treated housing production as separate from neighborhood building. Large numbers of standardized units could be inserted into an existing community without sufficient consideration of how buildings, streets, amenities, public spaces, and surrounding neighborhoods function together over generations.

Many of those planning decisions have since become lessons within our profession.

The lesson is not that we should build less housing.

The lesson is that **housing production and good community planning cannot be separated from one another.**

If we are going to build thousands upon thousands of homes across Oregon—and we should—we should want those homes to become the enduring neighborhoods that future generations of Oregonians inherit.

We have an obligation to get both pieces right.

Uniformity Is Not the Same as Equity

As a child, my favorite book was *A Wrinkle in Time*. One scene has remained with me throughout my life.

The characters encounter a place where the houses are identical, and daily life has been reduced to perfect conformity. What initially appears orderly eventually reveals something deeply troubling: individuality and local identity have disappeared.

I find myself thinking about that image as I review these rules.

Obviously, Oregon Homes is not *A Wrinkle in Time*. But the underlying planning question is worth considering:

How much uniformity are we willing to impose in pursuit of efficiency, and what do we lose in the process?

Oregon should absolutely remove unnecessary barriers to housing.

But standardization should be a tool—not an objective in itself.

The Potential Unintended Consequences Are Significant

My concern is not simply philosophical. I believe there are practical consequences that deserve much greater consideration before these rules move forward.

First, we risk creating increasingly homogeneous residential development across Oregon.

When the same development standards are applied broadly across very different communities, developers will rationally gravitate toward repeatable products that meet those standards efficiently. Over time, we risk replacing locally responsive neighborhood development with standardized development patterns that have little relationship to the communities in which they are located.

The loss of community identity may be gradual, but once reflected in the built environment, it is extraordinarily difficult to reverse.

Second, we risk undermining the local planning profession.

Local planners do much more than process development applications. They work with communities to translate statewide objectives into locally appropriate solutions. They innovate. They balance competing objectives. They understand the interaction between housing, transportation, infrastructure, natural resources, economic development, urban design, and community character.

If increasingly consequential planning decisions are made through statewide rules and local planners are primarily responsible for administering those decisions, we should expect consequences for recruitment, retention, professional investment, and innovation within local planning departments in Oregon.

Why would talented emerging planners choose to work in Oregon local government if there is progressively less opportunity to actually plan?

Third, we risk disenfranchising the very communities we have spent years encouraging to participate in planning.

Local governments have invested enormous effort in expanding public participation and rebuilding trust in governmental decision-making.

We tell residents:

Participate. Help us plan your community. Your voice matters.

But that promise becomes increasingly difficult to sustain if residents discover that many of the decisions that most directly shape their neighborhoods have already been made through statewide rulemaking.

Public engagement cannot simply be ceremonial. People need to have meaningful opportunities to influence the places where they live.

Fourth, these rules risk creating substantial unfunded planning obligations for cities.

A statewide residential development code does not exist independently from the rest of a city's planning system.

Housing regulations intersect with public facility plans, transportation systems, infrastructure capacity, natural resource programs, neighborhood plans, comprehensive plans, zoning maps, development standards, capital improvement programs, and financing strategies.

Every Oregon community has assembled those pieces differently.

Changing one part of that interconnected system at the state level requires cities to unravel, reconcile, and reconstruct many of the remaining pieces locally.

That work requires staff, consultants, legal review, public engagement, and ultimately money.

Those implementation costs and system-wide consequences need to be fully understood before the state adopts rules that cities will then be responsible for making work.

Regulatory Friction Does Not Always Mean a Regulation Is Unnecessary

I also urge caution regarding the premise that difficulties experienced by developers necessarily demonstrate defects in local development regulations.

Over my career, I have worked with many housing developers. Many are excellent partners who understand local requirements, submit complete applications, work collaboratively with staff, and produce high-quality projects across a broad spectrum of housing types.

Others struggle with local processes for many different reasons – inexperience, undercapitalized, fundamentally anti-regulation, etc.

We should absolutely identify regulations that are unnecessary, duplicative, prohibitively expensive, or unrelated to legitimate public objectives.

But we should not assume that every regulation that creates cost, requires design work, or complicates a development proposal is therefore a barrier that should be eliminated.

Planning regulations exist because development creates consequences that extend well beyond an individual property.

Our responsibility is not simply to make today's project easier to build. It is also to consider the neighborhood and community that will remain long after the original developer has completed the project and moved on.

There Is a Difference Between State Leadership and a State Development Code

- I support state leadership on housing.
- I support clear housing-production expectations.
- I support accountability.
- I support removing unnecessary regulatory barriers.
- I support tools such as master home plans that can reduce cost and uncertainty and make housing easier to produce.

But those things are fundamentally different from establishing a statewide residential development code that every city must incorporate into its local planning program regardless of local circumstances.

That distinction matters.

Oregon's land-use planning system was built around statewide goals implemented through local comprehensive planning. That structure recognizes both the statewide importance of land-use decisions and the value of local knowledge, community participation, and locally tailored solutions.

We should be extraordinarily cautious before fundamentally changing that balance.

Please Reconsider the Direction of This Rulemaking

As planners, we are trained to think beyond the immediate problem in front of us.

We ask what happens next.

And what happens after that.

We consider unintended consequences because the physical consequences of our decisions can remain long after the political urgency that produced them has passed.

Oregon unquestionably needs more housing. The urgency is real.

But urgency should make us work harder to develop thoughtful solutions. It should not cause us to abandon the principles of good planning.

I fear this rulemaking has crossed an important line—from establishing statewide housing objectives to prescribing a statewide development code.

I fear that distinction is being underestimated.

And I fear that ten years from now, we will look back and recognize that, in our understandable urgency to solve one crisis, we weakened a planning system and diminished the local communities we were trying to help.

The buildings produced under these rules will not exist for ten years.

They may exist for a hundred.

Our responsibility therefore extends beyond today's housing-production numbers. It extends to the generations of Oregonians who will live in the neighborhoods we are creating today.

I respectfully ask the Commission to reconsider the scope of the Oregon Homes rules. Establish ambitious statewide housing objectives. Hold cities accountable for meeting them. Provide tools, resources, model codes, master house plans, incentives, and technical assistance that help communities succeed.

But preserve meaningful room for Oregon's cities and their residents to answer the question that has always been central to local planning:

How do we achieve Oregon's objectives in a way that works for this community?

That is not an obstacle to solving Oregon's housing crisis.

That is planning.

Yours Sincerely,

A handwritten signature in black ink, appearing to read "Heather Richards", with a stylized flourish at the end.

Heather Richards

Susan Sheythe

From: [S C Sheythe](#)
To: [DLCD Housing * DLCD](#)
Subject: Needed Housing
Date: Friday, August 7, 2026 7:40:38 PM

Some people who received this message don't often get email from shisusheythe@gmail.com. [Learn why this is important](#)

Hello,

My only concern regarding more housing which is needed (once empty commercial buildings are remodeled for apartments) is the issue of urban sprawl. I don't want to see more and more rural and forested habitats that are so important to me to be protected to help our already distressed wildlife survive, designated for urban development, a lot of which I've witness on the outskirts of Corvallis in all directions except where the Willamette River currently blocks city development from moving across the river.

Thank you for your time and consideration.
Susan Sheythe



Sightline

August 6, 2026
Chair Allan Lazo
Oregon Land Conservation and Development Commission
Cc: Department of Land Conservation and Development

RE: Middle Housing Oregon Homes Rulemaking

Dear Chair Lazo, Members of the Commission, and DLCD Staff:

Sightline Institute is a regional sustainability think tank. Our housing program focuses on letting people in Cascadia live closer to each other if they want to.

We testified last year in favor of HB 2258 and believe that the ORHomes program has great potential for the state in the coming years, including as a model for other places. However, as outside observers of this rulemaking process, we understand and in some cases share many of the concerns other stakeholders have raised.

Unfortunately, we don't have great ideas for resolving every issue. However, we think resolving one key ambiguity in the text of the proposed rule would resolve some questions.

This ambiguity is in 660-047-0010 (7), which uses the word "including" followed by paragraphs (a)–(e), connected with "and." Linguistically, it's not clear whether all these paragraphs are intended to be cumulative. If they were cumulative, every Oregon Homes Development would have to be a 7–11-unit multiunit dwelling, which would exclude the single-unit dwellings, ADUs, duplexes, triplexes, quadplexes, townhouses, and cottage clusters specifically listed in the preceding paragraphs. This doesn't make sense, which implies that the paragraphs are intended to be independent of each other. If so, then paragraph (e) would open a new discretionary state path for pre-approval of many project types, including much larger ones.

1. If the state's intent is for paragraph (e) to include a path to pre-approval of buildings with (for example) more than 11 homes, then Sightline suggests a clear and objective scope for the program: that any ORHomes project would need to fit within the envelope and requirements of the state's model zoning code for a jurisdiction of the relevant size.
2. Or, if the state's intent is for ORHomes to be limited to 11-home projects maximum, then Subsection 7 should be broken into multiple nested lists. Paragraphs (a) and (b) would identify eligible types and applicable sizes; paragraph (c) would apply only if the type is a multiunit dwelling; paragraph (d) would apply to every project; and paragraph (e) would provide alternative plan-approval routes that do not escape every other requirement in the list.

Building a new type of public program is difficult. It requires being at peace with the fact that some things will probably go wrong and need to be fixed, but also a minute focus on small details that could totally break the program and, in so doing, prevent it from ever reaching its potential.

We hope this feedback contributes to finding this balance and leading to a successful, usable program.

Contact:

Julia Metz (julia@sightline.org)

Michael Andersen (michael@sightline.org)



Washington County

August 7, 2026

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

[Delivered via email: housing.dlcd@dlcd.oregon.gov](mailto:housing.dlcd@dlcd.oregon.gov)

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

We appreciate the state's efforts to facilitate housing, and the opportunity to comment on proposed Middle Housing Oregon Homes rules. Issues of concern to us are addressed below, and in more detail within attachments.

Requirements and process alignment

We request that the core set of requirements for Oregon Homes proposals be simplified and aligned with those used for other housing reviews. If we want to encourage use of pre-approved plans for a range of ordinary home types, we should not ask for anything extraordinary in exchange.

As drafted, rules create a complex and specialized review, functioning like a Planned Development review despite its characterization as ministerial. Qualifiers involve housing type variables; minimum and maximum site sizes based on per-unit land area; minimum and maximum unit counts; unit size limits; average slope restrictions; natural resource and hazard considerations; demolition timing; a requirement that lots be vacant (which discourages retention of existing, typically more affordable homes); unique tree preservation and design requirements, and particular site amenities. Verifying all these factors will demand significant staff time and effort.

Characterization of this review as ministerial despite its considerable and unique requirements forces strained local budgets to subsidize the work and further stresses staff capacity. Although state staff suggests that assigning the burden of proof to applicants as reflected in 660-047-0020 (5) will reduce local effort, LUBA has confirmed that local governments must determine whether

Department of Land Use & Transportation · Planning and Development Services Division
155 N. First Avenue, Suite 350 · Hillsboro, OR 97124

that burden is met (Mingo v. Morrow County, 65 Or LUBA 122 (2012)). This means that we share the burden.

State statutes and rules increasingly blur the differences between ministerial and administrative decision types. This compounds risk and complexity for local land use regulation. If the Oregon Homes rules remain as intensive as currently proposed, conditions of approval will be unavoidable, especially for requirements such as those “resulting from a traffic impact analysis during the development review processes,” as reflected under 660-047-0020 (7). The intended ministerial review is not the accepted procedure for application of conditions historically. We ask that requirements be simplified/reduced commensurate with the intended ministerial review. Ideally, local jurisdictions would be able to apply clear and objective requirements they already have in place for similar developments in large part.

Single lot as site, concurrent reviews

Definitions tie an Oregon homes application to a single lot, as with Middle Housing. Any intent to allow concurrent review of multiple Oregon Homes applications, or concurrent review with other actions entirely, should be clarified so that applications reviewed at the same time remain distinct. This is important to protect potential to appeal one Oregon Homes development versus all, and avoid conflicting procedural requirements for notice, hearing or appeal rights tied to other actions.

Tree standards

We ask that tree protection be left to local regulation. Tree standards that differ from one application type to another may confuse applicants and staff, and increase the risk of inconsistent application.

Attached are more detailed remarks on specific draft amendments to Division 47. Minimal comments on state-proposed amendments to Division 46 are also attached.

Thank you again for the opportunity to comment.

Sincerely,
Anne Kelly, Senior Planner
Washington County Land Use & Transportation
Planning & Development Services, Community Planning

Requested changes to Division 47

The following text includes requested edits. Where rule intent is unclear, the request may be general. In other cases, specific revisions are suggested.

Plain black text reflects language based on the state's latest draft. ~~Red underline or strikeout~~ shows specific recommended revisions. *Italic* text explains the reason for each requested change.

660-047-0010 Definitions

(1) "Building height" means the vertical distance from grade plane (measured from the lowest ground surface a maximum of five feet from the building wall) to the average height of the highest roof surface ~~(measured to the tallest point of the roof of the building).~~

Issues/requested changes:

- *The current definition of "building height" is unclear and needs to be objective. It describes height as the average of the highest roof surface but then adds that it is measured to the tallest roof point, which contradicts the idea of using an average and creates confusion.*
- *The proposed definition may also conflict with local building height definitions. Local definitions often provide for flexible measurement methods based on roof type, building orientation, and site conditions. Using a different measurement for "Oregon Homes" would force staff to track multiple methods and increase the risk of inconsistent application.*

(7) "Oregon Homes Development" means a residential development type that would be approved to be placed on an Oregon Homes Lot including...

(8) "Oregon Homes Lot" means a lot or parcel that is...

(10) "Site plan" means a site or development plan that is drawn accurately to scale and include but are not limited to the following existing and proposed information:...

(13) "Usable outdoor space" means one of the following:...

Issues/requested changes:

- *Eligibility variables in these definitions function as numerous development standards and approval criteria, which should be relocated elsewhere and the definitions simplified.*

Beyond required home plan pre-approval, the definitions embed many qualifiers: housing type variables; minimum and maximum site sizes based on per-unit land area; minimum and maximum unit counts; unit size limits; average slope restrictions; natural resource and hazard considerations; demolition timing; a requirement that lots be vacant (which discourages retention of existing, typically more affordable homes); and required amenities. Verifying all these factors will demand significant staff time and effort.

- *Definitions under (7) and (8) tie an Oregon homes application to a single lot, as with Middle Housing or a Middle Housing Land Division. Any intent to allow concurrent review of multiple Oregon Homes applications, or concurrent review with other actions entirely, should be clarified so that applications reviewed at the same time remain distinct and avoid conflicting procedural requirements for notice, hearing or appeal rights.*

660-047-0020 Local Government Review Process

(1) Local governments must issue a land use decision... approving the development of an Oregon Homes Development... if the development proposal meets the applicable standards...

(2) Local governments shall review applications for Oregon Homes Development on an Oregon Homes Lot ~~local government~~ through completeness check, being no more rigorous than a ministerial review. Administration of this review shall only be to ensure compliance with standards provided in OAR 660-047-0020 through OAR 660-047-0050 and shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment.

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

(7) Nothing in this section precludes a local government from applying locally administered public facilities plans, 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 order in which a local government applies these locally administered standards or plans during the application or review period is determined by the local government at their discretion. A local government shall not establish public facilities plans, final engineering plans, or traffic impact analysis requirements uniquely for an Oregon Homes Development that exceeds the process applied to all other residential development of the same type.

*Issues/requested changes: We request that the core set of requirements for Oregon Homes proposals be simplified and aligned with those used for other housing reviews. **If we want to encourage use of pre-approved plans for a range of ordinary home types, we should not ask for anything extraordinary in exchange.***

Draft rules function like a Planned Development review, imposing extensive and highly specific requirements – such as dedicating 15% of the site as open space and stricter-than-usual tree retention, which may create costly tradeoffs and discourage developers from using pre-approved plans.

Further, characterization of this review as ministerial under (2), above, despite its considerable and unique requirements forces already-strained local budgets to subsidize the work and further stresses staff capacity. Although state staff suggests that assigning the burden of proof to applicants as reflected in (5) will reduce local effort, local codes already do this. LUBA has also confirmed that local governments must still determine whether that burden is met (Mingo v. Morrow County, 65 Or LUBA 122 (2012)), meaning the state’s assumption does not actually reduce local staff workload.

Department of Land Use & Transportation

*A ministerial/Type I review does not historically allow for imposition of conditions of approval, which would be necessary to address provisions of (7), above, such as those “resulting from a traffic impact analysis during the development review processes.” State statutes and rules increasingly blur the differences between ministerial and administrative decision types, and this compounds risk and complexity for local land use regulation. **We ask the state to provide a clear way to apply conditions, using the appropriate process.***

660-047-0030 Design Standards

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) Garages, carports, or on-site parking... if proposed... the combined width, ...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 that receive vehicular access from an alley; and*
- (c) Off-street parking areas that are separated from the street lot line by a dwelling.*

(3) Storage facilities for trash and recycling receptacles that are located within 20 feet of a street lot line or a lot line abutting residential property shall meet the following standards:

- (a) ...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 4 feet in height, except as specified in subsection (c) and located no more than 3 feet from the storage facility.*
- (b) The storage facility must be separated from the street lot line by at least 5 feet.*
- (c) For lot lines abutting residential properties, the storage facility must either be setback from the lot line by at least 5 feet, or the screen facing the lot line must be at least 6 feet in height.*

(4) A local government shall approve an Oregon Homes Development application if the proposed site plan varies not more than 10 percent from the design standards described in this section.

Issues/requested changes: These extensive requirements add to the nature of this review as a Planned Development. We ask that requirements be simplified/reduced commensurate with the intended ministerial review. Ideally, local jurisdictions would be able to apply clear and objective design requirements they already have in place for similar developments. Many draft design requirements above appear more stringent than typical local requirements, several standards governing angles, and dimensions and percentages unique to this review add staff time to compliance verification, as does a variance allowance lacking clear and objective direction as to its application.

Again, we should not ask for anything extraordinary in exchange for use of pre-approved plans that cover a range of ordinary housing types. If the process and criteria remain as intensive as currently proposed, conditions of approval will be unavoidable. The intended ministerial review is not the accepted procedure for application of conditions historically.

660-047-0040 Siting Standards

Issues/requested changes: Siting standards provide a long list of required attributes for outdoor areas, adding to the nature of this review as a Planned Development. Ideally, local jurisdictions would be able to apply clear and objective siting requirements they already have in place for similar housing. Though Oregon Homes involves pre-approved plans, the home types are not atypical such that elevated exactions seem justified.

660-047-0050 Tree Standards

Issues/requested changes: We ask that requirements related to tree protection be left to locally adopted standards. Tree standards that differ for one type of housing application versus another create confusion for staff and increase the risk of inconsistent application. Further it appears that requirements as written preclude removal of any tree over 20 inches or greater DBH, regardless of whether it exists on an adopted protection plan. This creates risk where development may damage root systems and impact the safety of future homes.

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Requested changes to Division 46

The following includes requested text edits. Where intent is unclear the request may be general, and in other cases specific edits are suggested.

Plain black text shows language assuming state proposed changes in latest draft. Red underline or ~~strikeout~~ shows any specific recommended revisions. *Italic* text indicates why a change is requested.

660-046-0020 Definitions

(2) “Cottage Cluster” means a grouping of dwelling units that:

(a) Are attached in subgroupings of up to four units and/or detached in any configuration with no limitation on total number of cottage cluster units;

Why change is requested: As proposed in current draft rules allow only one or other (attached or detached). If a cluster can include a mix of attached and detached, specify “and/or” to be clear and objective. Potential for a mix better accommodates housing choice.

(c) Each have a small footprint or floor area such that units have an average of 1,400 square feet;

Why change is requested: This requirement needs revision to be clear and objective. Can’t assume people will infer the intent consistently. Issues/questions: Footprint is understood to be at ground level, while floor area includes total square feet of all floors. Are units limited to an average of 1,400 square feet in total floor area, or in footprint? If can apply to either, would units be allowed an average 1,400 square-foot footprint and additional floors for total floor areas exceeding that average? If not, clarify.

(8) “Large City” means a city with a certified Portland State University Population Research Center estimated population of 25,000 or more, or a city with a population over 1,000 within Metro a metropolitan service district. A Large City includes:

(b) Urban ~~Un~~incorporated lands of counties.

Why change is requested: Although the intro specifies “within Metro” (and rural lands are not) adding “urban” as shown above will be clearer for a range of users with differing expertise. Clarity saves users time.