



November 7, 2025

Anyeley Hallova, Chair
Allan Lazo, Vice-Chair
Land Conservation and Development Commission
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

Dear Members of the Land Conservation and Development Commission,

The City of Hillsboro appreciates the opportunity to comment on the proposed amendments to OAR Chapter 660 including the Oregon Housing Needs Analysis (OHNA) and model code. 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 concerns about both the rules and the model code, outlined in detail below. These comments fall broadly within the following concerns:

1. The model ordinance does not align with recent legislation and goes beyond the minimum requirements and procedures set in ORS. It includes unclear language which does not promote production of housing.
2. The Housing Production Strategy rules create a broad statewide bar rather than requiring actions which take into account Contextualized Housing Need. Jurisdictions have a high analytical burden in doing a Contextualized Housing Need which is ignored entirely by creating compliance pathways that are not context specific.

Model Ordinance

1. Maximum Floor Area Ratio (FAR)

Siting standards for all housing types include a range for maximum FAR. A range typically indicates a minimum and maximum. If this is indicating a minimum and maximum range then it should be relabeled. The assumption is that this is not the case as this would create very large detached housing if used as written. For example, for a 5,000 square foot lot, if there was a minimum of 0.6 FAR, this would require that a 3,000 square foot house be constructed. If this is indicating a

Planning Division

recommended maximum range for jurisdictions to decide their own maximum FAR within that range, then it is not adoptable by reference because it is unclear as written.

2. Garage Entrance Setbacks

All unit types have an 18-foot garage setback. While this works as a parking space dimension, it does not work for a residential setting along a street. The below unit has a 19-foot setback to the garage door and the vehicle shown is barely off the street. This unit is located on an alley, but if this were along a sidewalk, the sidewalk would be blocked, reducing accessibility for users of the sidewalk.



We would recommend at least 19' for a garage setback which has worked in our code.

Later in the Measurement Methodology (10.1.5), the code states: "Where Tables 3.1-6.1 provide two options for the garage entrance setback, the garage entrance setback must either be 5 feet or closer to the street lot line or 18 feet or farther from the street lot line". Later, in exceptions, it also states "Where a garage is accessed from a rear alley, the standard rear setback applies". This requires an applicant look at three different sections to figure out the setbacks that apply.

A recommended change to correct these issues and to ensure clarity would be to make the garage setback apply to alleys and make it read "Garage Entrance Setback ≤ 5 feet or ≥ 19 feet" and it should be applied to all housing types.

3. Required Open Space

There is only required outdoor area for single detached and duplex units. While this works for infill development, it does not create a requirement for greenfield development to provide usable open space when a subdivision is created. In the City's larger residential developments with smaller, compact development, usable open space is an important aspect of a livable community.

4. Trash Storage

Where there are trash storage standards for some housing types (triplexes, quadplexes, townhouses, etc) there is only a standard for design of shared trash storage. It is unclear if shared storage is required or if individual unit storage is allowed. If only shared storage is permitted, the setback requirements from other residences and the street will diminish buildable area on the lot. In addition, the requirement that the shared storage be located at least 5 feet from the property line but the screening must be maximum three feet from the storage precludes a property line fence from serving as screening.

5. Conflicts with Easements

While there are exceptions noted for health and safety, access, building codes, etc, there are no exceptions noted for where this code conflicts with easements such as utility easements. The standard public utility easement in Hillsboro is 8-feet which would exceed the minimum setbacks and this conflict is not mentioned in the model code.

6. Required Frontage for Townhouses

Section 4.2.4 requires "Each townhouse lot shall have at least 15 feet of frontage on a local street" but does not make it clear that this applies to townhomes with individual driveways as noted in Table 4.1. This is unclear and would preclude townhomes from being built on flag lots as written.

7. Landscaping along Arterials

Section 6.2.9 requires two rows of evergreen trees to be planted within the minimum setback for multi-unit sites along an arterial. The minimum setback is five feet which does not accommodate that amount of landscaping. A minimum setback specific to arterials to accommodate landscaping should be included for clarity.

8. SB 974 Design Standard Exception

The model code includes a mix of minimum requirements from statute and standards which have gone beyond those minimum requirements. For example, the model code goes beyond the requirements of state legislation and does not align with recently adopted legislative requirements in SB 974 (2025). SB 974 (2025) included exceptions for certain housing applications from specific design standards. SB 974 applied exceptions to applications for housing over 20 units unless the application is for a multifamily structure as defined in ORS 197A.465. This defines a multifamily structure as a structure with three or more units that shares at least one wall, floor or ceiling surface in common with other units. In their guidance document dated October 6, 2025, DLCD provides clarity that the exception only applies to housing which does not meet the definition of multifamily structure including detached single dwellings, duplexes, detached plexes, detached cottages, attached cottages in subgroupings or two units per structure, townhouse structures with two units and detached bonus units allowed under Section 3 of HB 2138. Rather than following that guidance, the model ordinance applies the exception to all detached single-unit, duplex, triplex, quadplex, townhouse and cottage cluster developments with 20 or more units. This is an overreach and not in alignment with both recent legislation and DLCD's own guidance. In places where the model code exceeds minimum requirements from statute, it should be made clear within the code either in commentary or in the code itself.

9. Adoption by Reference

While the intent to provide the ability for jurisdictions to adopt parts of the code allows jurisdictions to easily be in compliance with state law without having to amend their own code, this does not make it more clear for users of local codes like practitioners, developers, builders, property owners, etc. In practice, it would be incredibly confusing for code users to be reading through a City's development code and have to figure out what applies from the local code and what regulations to use from the model code.

10. Ministerial Decisions

The model code establishes a procedure for a Ministerial Decision including a 60-day review timeline. In addition to that procedure, the model code dictates that any housing application for development with less than 50 units would be reviewed under this procedure. The City takes no issue with the timeline established in this section as the current timeline for Zoning Reviews at our jurisdiction is much faster

than this (21 days). However, the scope of this application is narrower than what the model code is applying it to. Currently, we apply a Zoning Review process to single detached and middle housing developments and likely will expand this to other housing types in the future. However, this model code sets that bar at a 50-unit development, forcing those projects into a shorter timeline without statutory direction to do so. This section of the model code also sets the appeal authority for ministerial decisions as the Circuit Court and precludes local appeal. This means that many housing applications which would have previously been able to be appealed locally and/or to LUBA would now only be appealable to Circuit Court. In the event of an appeal, this would likely result in a longer review timeline as Circuit Court is not beholden to the 120-day timeline as a local appeal body would be.

11. Modifications

SB 974 (2025) included language which limited certain land use decisions to a limited land use decision including “a variance from a residential approval standard”. In recent guidance dated October 6, 2025, DLCD interpreted this to broadly mean “any land use review that approves a variation from a development standard in the local government’s land use regulations, even if the process itself is not called a variance”. The model code includes a section in the procedures and applications section for “Modification” from the standards in the model code, more commonly called adjustments or variances.

The Modification section allows applicants to request one or more adjustments to standards, carries no limit on the number or amount of modification and determines that the decision should be made as a limited land use decision. While the review procedure is consistent with SB 974 (2025), the section goes far beyond what the legislation mandated by creating a process and application section including approval criteria. SB 974 (2025) only spoke to the procedure which should be used. The other applications within the model code do not include approval criteria unless established by statute, such as in the case of Middle Housing Land Divisions.

There have been several other bills in recent years which spoke to adjustments including SB 1537 (2024) which dictated that jurisdictions must grant mandatory adjustments to certain housing applications. Not all housing applications qualify and the bill set a cap on both the number of adjustments which could be requested and the amount of deviation which was allowed. The modification section of the model

code, while not implementing SB 1537 (2024), is not in line with the intent to allow some amount of deviation but within certain limits. The modification section does not align with the intent of recent legislation and is creating a dangerously broad adjustment application. This will strip local jurisdictions of the ability to use their own adjustment criteria as they are likely not comparable to the application created in the model code.

Alignment with Legislation

HB 2001 (2023) directs LCDC and DLCD in adopting rules relating to planning for needed housing to be guided by principles which included the following: "Expertise, technical assistance, model ordinances and other tools and resources to address housing production should be provided to local governments using cooperative planning tools...". The intent of this legislation was clearly for DLCD to provide tools and resources for local jurisdictions to increase housing production, not to create a mandatory model ordinance. SB 1564 (2024) which directed DLCD to develop model ordinances for small, medium and large cities states that the model ordinances *may* be readily adopted by a local government. Nowhere in the legislation is DLCD directed to create a model ordinance which cities *shall* adopt.

The rules require that jurisdictions within their Housing Production Strategies meet their housing needs for middle housing, multi-unit housing, accessible housing, adaptable housing, affordable housing and larger household housing. Each type of housing has compliance pathways to plan for production and all of the pathways include application of the model ordinance, making it essentially mandatory. This was not the intention of the model ordinance and applying it through the Housing Production Strategy (HPS) is an overreach on the part of DLCD and disregards local planning done by jurisdictions to meet their own housing needs. It is unclear what the point of a jurisdiction evaluating their contextualized housing needs is if the only pathways to propose increasing housing production are unilateral adoption by all jurisdictions of a model ordinance or rebutting that your local code is "demonstrably comparable or no more restrictive".

The model ordinance should remain a tool for jurisdictions to utilize for updating their own code or in cases where jurisdictions do not have the resources to undertake code amendments. It should also be used as an appropriate compliance tool for Cities who have not complied with HPS requirements and are under a housing acceleration agreement as dictated in HB 2001 (2023), not as a requirement of all jurisdictions in the HPS process.

Required Housing Mix

OAR 660-008-0075 (6) establishes a required unit mix within the Contextualized Housing Need as a rebuttable presumption. This mix requires at least 40% multi-unit housing and 20% middle housing with the remainder being single-unit housing. As a part of the rulemaking process, DLCD asked ECONorthwest to provide an analysis of potential compliance pathways, summarized in a memo dated July 9, 2025. In the memo, the recommendation on the housing mix requirement was contextualized by size of jurisdiction combined with local housing production numbers from the previous HPS cycle. The recommended minimums were as follows:

Figure 3: Recommended Housing Type Mix by City Size

Jurisdictions in Metro UGB	50k+ cities outside Metro UGB	10-50k cities outside Metro UGB	<10k cities outside Metro region
≥55% multi-unit & middle housing	≥50% multi-unit & middle housing	≥45% multi-unit & middle housing	≥40% multi-unit & middle housing

The rule goes beyond this recommendation and does not take into account size of jurisdiction by scaling mix requirements. The memo also recommended that there be a balance between policy objectives and practical considerations to avoid unintended consequences:

“The policy objectives are clear that the goal is to increase unit type diversity to expand housing options. To do this, the compliance pathway would need to result in a greater emphasis on multi-unit and middle housing relative to recent trends. However, if taken too far, over-emphasizing multi-unit and middle housing in a quantified type mix compliance pathway risks unintended consequences for under-estimating overall land need and misalignment with market demand. This could lead to barriers to overall housing production and/or to meeting needs for housing with characteristics that are correlated with housing type, including tenure and unit size.”

The required mix in OAR 660-008-0075 (6) goes beyond the recommendation of ECONorthwest and *“risks unintended consequences for under-estimating overall land need and misalignment with market demand”*. In addition, there are no set criteria or guidance on how cities would rebut this presumption to provide a more appropriate mix based on their Contextualized Housing Need.

Urban Reserves Designation and UGB Expansion Requests

Additional constraints around urban reserve designation and expansion requests will make it difficult for the City to pursue these options when buildable land within the City is insufficient to meet our housing production needs. In addition, it is unclear whether Cities currently within an HPS cycle will need to meet the new rules surrounding UGB expansion requests during their current cycle if wishing to make a request or if the new rules will be applicable only to the next HPS cycle once rules are passed.

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 take into account practicality and feasibility when making a decision on the proposed amendments.

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