



November 7, 2025

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

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

RE: Washington County Comments on Draft Oregon Housing Needs Analysis (OHNA) Rules

Dear Chair Hallová, Vice-Chair Lazo, and LCDC members,

Thank you for the opportunity to comment on the draft OHNA Rules. We appreciate DLCD staff's significant efforts, the inclusion of Washington County staff in the Rulemaking Advisory Committee, and state consideration of prior comments from County staff, leadership and Board. **Please accept our additional comments on the draft OHNA Rules you will consider for adoption Dec. 4, 2025.**

1. READINESS AND STATUTORY ALIGNMENT

Given collective concerns raised by partner organizations such as the Association of Oregon Counties, League of Oregon Cities and the cities of Wilsonville and Oregon City regarding readiness of the rules and potential overreach beyond statutory direction, we urge careful consideration of shared concerns before adoption. We are curious about Commissioner Warren's question in the October 23 LCDC meeting as to what happens if these rules are not adopted Dec. 4 and would welcome additional time to iron out the concerns raised.

2. ANALYTICAL BURDEN

The volume of analytical expectations is substantial and may divert resources from actual housing facilitation. **We recommend further reducing these requirements, including those for development of Housing Capacity Analyses and Housing Production Strategies, and those built into the "Rebuttable Presumption" compliance pathway** that requires jurisdictions to prove local standards meet or exceed Model Code. It is unlikely that financial and consultant assistance from the state can be guaranteed indefinitely or for all jurisdictions that lack resources to complete

requirements on their own. Unfunded mandates risk increasing local fees and housing costs.

3. COUNTY-SPECIFIC CHALLENGES

Counties face unique constraints compared to cities:

- A. **Counties can't annex land and will lose land to city annexations.** To meet OHNA requirements, Washington County must work only with land currently under our authority, already inside the UGB, outside city boundaries and new urban areas intended for planning by cities. At the same time, incorporated cities fully or partly within the County can annex from this land to meet their own allocated housing need. Metro and County policies encourage this practice to ensure orderly provision of services, and do not allow us to seek UGB amendments to recapture or expand our capacity as a city might. Draft Rule provisions that direct identification of lands that can be relied upon as developable (ready for housing in six/eight-year cycle) or buildable (20-year supply) to prove short- and long-term capacity, do not work for counties. **We request rule amendments that recognize county land capacity will shrink due to city annexations and ensure that housing need allocations transfer from the county to a city upon annexation. If this does not occur prior to adoption, we request a commitment to pursue amendments in 2026 to address this.**
- B. **Counties have limited funding flexibility.** Draft Housing Production Strategy requirements call for a mix of Land Use Efficiency Measures (LUEMs) and "other" actions that largely translate to financial incentives. Counties have limited ability to offer financial incentives due to broader service responsibilities and a constrained tax base; and because most of the System Development Charges (SDCs) that we collect are collected on behalf of other entities, so we have no authority to reduce or waive those. The County will likely need to rely largely on LUEMS to boost efficient use of our shrinking urban land base for housing. **We ask that requirements to include HPS actions besides LUEMs be allowed but not required, at least for counties.**
- C. **Counties need the same tools that are provided to cities.** Counties are treated as "cities" for purposes of OHNA and must have access to the same tools provided to cities. The state's Equity Indicators Dashboard, which House Bill 2001 (2023) required to be published by January 1, 2025, continues to lack data for counties. This hinders our work toward compliance with draft rules that mandate use of Equity Indicators Dashboard information for Housing Capacity Analysis (HCA), Contextualized Housing Need (CHN) and Housing Production Strategy (HPS) development, and in order to utilize safe harbor provisions. **We ask that Rules be revised to provide counties with a feasible compliance path that does not depend on unavailable data. If this does not occur prior to adoption, we request a commitment to pursue amendments in 2026 to provide one.**

4. OHNA CYCLE TIMING

The six-year cycle for Metro counties is highly aspirational given the time required for typical development. Since 2022 County adoption of Middle Housing allowances, a number of development permits have been issued but most are yet to be built. Many housing developments take longer than five years to complete. This does not account for the applicant's work to plan for, fund and ensure project viability prior to and leading up to a land use application. We are likely to see more extended timeframes as the development community endeavors to provide atypical housing forms. We are concerned that many jurisdictions subject to the six-year window will be candidates for the "acceleration program" at the end of our initial cycle, despite concerted efforts to meet state expectations.

We ask that rules be amended such that in the first cycle local jurisdictions not be penalized as part of any acceleration action. We also ask that the state use findings from the first cycle, and undertake additional research, to inform whether amendments are needed to reflect an extended timeline for future cycles.

5. OVERLY PRESCRIPTIVE RULES

We remain concerned that overly prescriptive requirements for local jurisdictions to define housing need per location, by specific housing types and income brackets may inadvertently reinforce segregation. We suggest that facilitating a mix of unit types widely, and a mix of sizes regardless of type, may better help diversify housing choice for a diversity of households at mixed prices/rents in more places, as intended.

We request that DLCD staff be directed to further explore this or related options over time, to further simplify requirements, and to monitor unintended consequences of existing "type, characteristics and location" requirements related to the above.

6. PACE OF NEW MANDATES AND CONFLICTS

Rapid statutory changes have led to competing or unclear requirements. Legislative changes that occur in rapid succession can result in limitations on allowances, additional procedural requirements, costs and potential legal risks. This seems contrary to OHNA intentions to facilitate housing through simplified procedures and elimination of unnecessary cost and delay.

For example, recent amendments to Middle Housing Land Division rules (2025 HB 2138) restrict Middle Housing Land Division to one townhouse building or one cottage cluster. Senate Bill 458 (2021), however, provided that "middle housing land division" means a partition or subdivision of **a lot or parcel** on which the development of middle housing is allowed. Model Code adopted as an exhibit to OAR 660-046 provides that "Cottage cluster project" means a development site with **one or more** cottage clusters, and "Townhouse project" means **one or more** townhouse structures constructed, or

proposed to be constructed, together with the development site. While state staff indicates that despite the new limitation, a standard land division could be processed to allow additional MHLDs, this adds process, cost and delay, and is not possible on challenging sites. We and other jurisdictions have proceeded with allowance of an MHL for multiple cottage clusters and townhouse buildings within a parent lot or parcel with an assumption of safety based on previous state provisions.

Local and state governments need the ability to implement and evaluate the effect of new provisions before other complex regulatory and rule changes occur. We hope the legislature will slow the proliferation of new mandates and support corrections to statute to remove unintended conflicts and barriers; and that this and future Rulemaking will seek to remain within the parameters of statutory direction and not create further inconsistencies.

We appreciate your consideration and look forward to continued collaboration.

Sincerely,



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Director of Land Use & Transportation

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