



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 'Tom Ellis', with a stylized, cursive flourish at the end.

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 definitions apply:

- (1) "Building Height" means the vertical distance from the lowest ground surface a maximum of five feet from the building wall to the tallest point of the roof of the building.
- (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,, 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.
- (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 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 onsite;
 - (c) The use is permitted in the zoning designation and the minimum density requirements of the applicable 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 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) 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 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) "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 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 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

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.

(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 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, 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. Example requirements which are 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 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:

(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) 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 on of the following are excluded from this standard:

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

(3) Trash or recycling receptacles for all cottage clusters, all multiunit developments, or other housing in which the trash or that 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 screen must be at least 6 feet in height 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.

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 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 a proposed or existing utility easement. For buildings greater than 35 feet in building height, the setbacks must be 10 feet on all sides.
- (2) The use and density is permitted in the zoning designation and the minimum density requirements of the applicable 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 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) Statutory/Other Authority: ORS 197A.408

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

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 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 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