

# ANNIKA ERIKSSON

## PHASE ONE MHOR HOMES RAC MEMBER • LIVED EXPERIENCE

Middle Housing and Oregon Homes Rulemaking Advisory Committee • Oregon City, Clackamas County, Oregon  
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| TO:               | Chair Allan Lazo and Members of the Land Conservation and Development Commission (LCDC)                                                                                                                                                              |
| FROM:             | Annika Eriksson, Phase One MHOR Homes RAC Member (Lived Experience)                                                                                                                                                                                  |
| DATE:             | September 28, 2026 (Updated September 30, 2026)                                                                                                                                                                                                      |
| RE:               | <b>Public Comment on OAR Chapter 660, Division 047 Interim Draft (V5, September 2026)</b> — Closing the Involuntary Vacancy Gap, Preserving Naturally Occurring Affordable Housing, and Addressing Rulemaking Advisory Committee Record Deficiencies |
| SUBMISSION EMAIL: | housing.dlcd@dlcd.oregon.gov                                                                                                                                                                                                                         |
| PROGRAM PORTAL:   | DLCD Middle Housing and Oregon Homes (MHOR) Rulemaking                                                                                                                                                                                               |

### EXECUTIVE SUMMARY

I serve as a lived-experience committee member on the Phase One Middle Housing and Oregon Homes Rulemaking Advisory Committee (MHOR RAC) and reside in Oregon City. I submit this formal public comment on the interim Version 5 draft of OAR Chapter 660, Division 047, promulgated pursuant to **ORS 197A.300–197A.325**.

I strongly support the statutory mandate of the Oregon Homes program to expand diverse, accessible, and attainable housing options across Oregon. However, this comment addresses a critical structural defect running throughout the interim draft:

**THE INVOLUNTARY VACANCY PARADOX**

While Division 047 establishes clear and objective standards to approve new middle housing construction on “vacant” parcels, it contains **zero safeguards** to prevent municipal code enforcement, franchised utility shutoffs, and institutional loan-servicer inertia from systematically stripping occupied homes of habitability and manufacturing “vacant” land through administrative displacement.

Under **Statewide Planning Goal 10 (Housing)** and the **Oregon Housing Needs Analysis (OHNA)**, housing preservation is an indispensable component of housing supply. When municipal code enforcement operates punitively—levying \$300/day nuisance fines, cutting off domestic water, refusing disability accommodations, and attaching property liens rather than assisting with structural compliance—it actively destroys Naturally Occurring Affordable Housing (NOAH). Treating land cleared through municipal pressure and clouded title as “vacant” infill land manufactures a paper gain in housing production while masking a severe, unrecorded net loss in actual shelter.

*As the Center for Community Progress observed in *From Fines to Fixes*, when a homeowner on a fixed income facing an unexpected \$850 citation remarks that “it might be easier just to walk away,” that precise moment marks the irreversible loss of viable housing stock. Division 047 currently provides no barrier to prevent local jurisdictions from converting that abandonment into an expedited infill redevelopment site.*

### SECTION 1: REGIONAL EVIDENCE – CLOUDED TITLE, SERVICER INERTIA, AND INFRASTRUCTURE COLLAPSE

The loss of housing through administrative pressure, clouded title, and uncoordinated municipal codes is not theoretical. Across Clackamas and Multnomah Counties, empirical court records and physical events

demonstrate how the absence of proactive protections creates acute life-safety hazards and destroys shelter:

### 1.1 The Servicer Limbo and Patchwork Municipal Code Trap

Municipal property maintenance and vacant-property registration ordinances enacted across Oregon around 2022 (e.g., Oregon City Municipal Code Title 8 & 17) were ostensibly adopted to prevent neighborhood blight and force financial institutions to maintain homes during foreclosure. In practice, they create a destructive Catch-22:

1. When institutional loan servicers or debt buyers encounter procedural defects, uncollectible debts, or standing challenges in judicial foreclosure dockets, they routinely refuse to invest in basic structural upkeep or habitability repairs, yet aggressively maintain encumbrances that cloud title.
2. Successor owners, low-income purchasers, or bona fide occupants seeking to maintain the residence are stripped of clear record title. Consequently, they are disqualified from obtaining standard municipal building permits, cannot secure licensed contractor financing, and are barred from accessing state weatherization and repair assistance programs.
3. Municipal code enforcement, operating under rigid complaint-based models, does not distinguish between an absent, noncompliant institutional servicer and an occupant attempting to preserve the home. Instead, municipalities levy escalating nuisance fines (\$300/day), administrative liens, and utility shutoffs directly against the property.

### 1.2 Case Record: Title Cloud and Infrastructure Collapse on SE Pipeline Road (Gresham)

On SE Pipeline Road in Gresham, two adjacent residential properties have been subjected to foreclosure proceedings. One of the properties passed to the current occupant through an informal, undocumented transfer from an elderly neighbor. Such informal arrangements are common among low-income and aging households, but they leave title unrecorded and legally clouded.

When title is clouded, the occupant cannot obtain standard repair permits, cannot access licensed contractor financing, and is disqualified from state and federal repair assistance programs. In Multnomah County Circuit Court Case No. 24CV02984 (*The Bank of New York Mellon v. Janice Dysinger et al.*), the lender prosecuted a judicial foreclosure action naming the occupant as a defendant. On the adjacent property, an on-site septic system failed, causing severe structural settling; however, the wastewater failure could not be permitted or repaired because municipal and county environmental permits strictly require clear, unclouded title.

The structure became uninhabitable. When the vacant structure predictably attracted trespassers, the municipal response defaulted to police scrutiny and nuisance enforcement directed at the occupant rather than infrastructure assistance or title resolution. Under the interim V5 draft of Division 047, if either property is ultimately demolished or condemned, the resulting parcel becomes “vacant” under OAR 660-047-0010(8)(h) and eligible for expedited middle housing redevelopment. The state would record that redevelopment as a housing production success, while the community experiences it as preventable housing destruction.

### 1.3 Case Record: Life-Safety Failure Under Contested Title at 635 Fairfield (Gladstone)

At 635 Fairfield Street in Gladstone, an entire family required emergency hospitalization and hyperbaric treatment for acute carbon monoxide poisoning resulting from an ad hoc furnace repair and unvented gas appliance usage. The property had been the subject of protracted foreclosure litigation and procedural conveyance anomalies (*Fitch v. Turning Leaf Homes*, Clackamas County Circuit Court) mirroring title defects present across the region.

When residents are locked out of conventional contractor permitting and proactive municipal repair assistance due to title limbo, desperate occupants turn to unpermitted, makeshift heating. Reactive code enforcement and title displacement transformed an otherwise viable single-family dwelling into an acute life-safety emergency.

### 1.4 The Institutional Safety Net Failure: Structural Exclusion from Legal Defense and Repair

A fatal assumption underlying Division 047's vacant-land model is that low-income homeowners facing code enforcement, servicer neglect, or structural decay have access to remedial legal and financial off-ramps. In practice, the administrative safety net is structurally closed:

1. **The Economic Impossibility of Complex Real Property Defense:** While state policy assumes low-income Oregonians can contest wrongful liens or title clouds through legal aid or public-interest foreclosure defense programs, the economics of civil representation prevent these programs from taking complex, high-merit title cases. Legal aid housing resources are almost exclusively triaged to high-volume, short-turnaround residential eviction defense (FED court under ORS Chapter 90). Specialized foreclosure defense initiatives are structurally driven toward formulaic outcomes—such as loan modifications or deeds-in-lieu—where predictable fee recovery or quick settlements justify operational costs. When an Oregon homeowner faces an egregious, multi-year title defect or predatory servicer inaction, specialized defense attorneys routinely decline representation because they cannot absorb hundreds of uncompensated litigation hours against institutional foreclosure mills. Vulnerable homeowners are left entirely unrepresented to navigate opaque court rules and municipal hearings alone.
2. **The Exclusionary Criteria of Public Repair and Weatherization Programs:** Simultaneously, publicly funded home repair, weatherization, and emergency mechanical programs (administered through Oregon Housing and Community Services (OHCS), local counties, and Community Action Agencies) strictly require clear, unencumbered record title. They explicitly disqualify properties with active notices of default, pending foreclosure dockets, or accrued municipal liens. Major structural repair grants additionally require homeowners to sign junior promissory notes or restrictive covenants—instruments that cannot legally attach to a property trapped in clouded-title limbo.

The resulting systemic failure is absolute: the homeowner cannot access legal counsel to clear title because their case is too complex for legal aid, and they cannot access state repair grants to maintain basic habitability because their title remains clouded. When municipal code enforcement subsequently issues nuisance citations, shuts off water, or condemns the structure, the municipality is penalizing the occupant for a structural paralysis created by institutional failures. Treating the resulting cleared parcel as “vacant” infill land under OAR 660-047-0010(8)(h) rewards this breakdown and incentivizes the cannibalization of naturally occurring housing.

### 1.5 Institutional Alignment: Washington County Record Corroboration

This analysis is directly corroborated by local government testimony already in the Commission’s record. In its formal submission (DLCD Public Comment Compilation, pp. 193–197), Washington County expressly cautioned that Division 047’s “*vacant-lot requirement can discourage retention of existing, typically more affordable homes.*” When county planning departments and lived-experience RAC members identify the identical perverse incentive, the Commission must recognize that the interim definition of “vacant” actively undermines housing preservation across Oregon jurisdictions.

### 1.6 The DLCD Record Clash: Oregon City Public Comments vs. Lived Experience

A direct comparison of public comments submitted during Phase One reveals a stark divergence between municipal lobbying priorities and lived-experience housing realities:

- **The July 7, 2026 Lived-Experience Submission (Compilation pp. 5–8):** My formal submission documented how municipal administrative actions—specifically utility shutoffs, \$300/day nuisance fines, and the absence of clear title resolution pathways—force vulnerable, disabled, and fixed-income residents out of viable housing. The comment cautioned that unless Division 047 includes explicit anti-displacement safeguards, expedited middle housing development will accelerate gentrification and speculative clearance of distressed parcels.
- **The July 31, 2026 City of Oregon City Submission (Compilation pp. 80–84):** In contrast, the City of Oregon City advocated for broad municipal discretion over “public facility adequacy,” preservation of franchised utility monopolies and service gatekeeping, and unchecked authority to restrict development based on localized capacity determinations without requiring protections for existing residential occupants on those same utility corridors.

This contrast is critical: while municipalities lobby the Commission for expanded authority to gatekeep public infrastructure and enforce local codes, they simultaneously use utility shutoffs and code liens to displace low-income residents from the very parcels they seek to redevelop. Division 047 must reconcile this contradiction by conditioning middle housing eligibility on infrastructure continuity and proactive code compliance.

## SECTION 2: PROACTIVE CODE COMPLIANCE AS AN ESSENTIAL SUPPLY STRATEGY

### 2.1 The National Scale of Preventable Housing Loss

The Center for Community Progress (CCP) estimates that the United States loses between 350,000 and 400,000 housing units each year to physical deterioration, demolition, and severe weather. New construction alone cannot close Oregon’s housing deficit if the state’s land use and planning rules ignore preventable attrition. As CCP’s *Code Enforcement Training Guide* (November 2025) emphasizes:

*“The traditional approach to code enforcement is due for urgent review and reevaluation... a shift to strategic code compliance yields outcomes that are more equitable, effective, and efficient [supporting] resiliency, housing security, neighborhood safety, and racial and economic justice.”*

Proactive code compliance builds relationships with residents before issuing formal citations, connects low-income and fixed-income occupants to structural repair resources, uses data to identify at-risk homes early, and offers compliance incentives rather than escalating fines and liens.

## 2.2 Documented Municipal Success Models

Documented outcomes from jurisdictions across the country that shifted from reactive to proactive enforcement confirm that strategic compliance preserves housing:

- **Los Angeles Systematic Code Enforcement Program (SCEP):** Inspects approximately 880,000 multifamily units every four years. Over its history, SCEP has resolved more than 1.5 million habitability violations and catalyzed \$1.3 billion in private reinvestment into existing housing stock.
- **Boston Proactive Rental Inspection Ordinance (City Code CBC 9-1.3):** Brought over 133,000 rental units onto a formal registry, shifting routine oversight from 98% complaint-driven to systematic habitability prevention.
- **San José Proactive Rental Inspection (Project Hope):** Closed 2,121 code violations in 2024 (over 90% within 150 days) under an explicit statutory mandate to “*prevent the decline and deterioration of aging rental stock, reduce blight conditions, and reduce likelihood of complaint-based evictions.*”
- **City of South Fulton Code Cares Program:** Provides direct physical assistance to seniors (aged 65+) and residents with disabilities facing maintenance hurdles, deliberately prioritizing physical solutions over fines, fees, and liens. Awarded the International Code Council’s (ICC) 2025 Community Service Award.
- **Louisville, KY & Providence, RI Initiatives:** Restructured municipal enforcement in partnership with CCP technical assistance to replace rapid financial penalties with pre-citation warnings, repair navigation, and proactive habitability grants.

## SECTION 3: SPECIFIC RECOMMENDED AMENDMENTS TO OAR CHAPTER 660, DIVISION 047

To align Division 047 with Statewide Planning Goal 10 and ensure municipal administrative actions do not manufacture redevelopment land through displacement, I urge the Commission to adopt the following redline amendments:

### 3.1 Amend Definition of “Vacant” – OAR 660-047-0010(8)(h)

**Purpose:** Ensure parcels emptied through utility termination, punitive code liens, unpermitted life-safety hazards arising during title disputes, or infrastructure failures are not treated as “vacant” infill land.

#### PROPOSED REDLINE FOR OAR 660-047-0010(8)(H):

(h) “Vacant” means a parcel or lot that has no developed residential structure, or meets the criteria of (A) through (D) below. **However, a parcel or lot shall not be deemed vacant if a residential dwelling on the parcel was condemned, demolished, rendered uninhabitable, or removed within the preceding ten (10) years as a result of municipal utility termination, municipal code enforcement liens, administrative tax or lien foreclosures, an on-site septic or wastewater failure where repair permits or hardship assistance were withheld due to title defects, or unpermitted life-safety hazards arising during contested title proceedings, unless the displaced household vacated voluntarily with documented, verified relocation assistance and fair replacement housing. A parcel subject to active title litigation, disputed foreclosure proceedings, or municipal code appeals shall not be deemed vacant during the pendency of those proceedings.**

### 3.2 Ensure Public Facility Continuity – OAR 660-047-0020(8) & 0010(10)

**Purpose:** Prevent a municipality or franchised utility from cutting off essential services to an existing resident while simultaneously declaring public infrastructure capacity exists to support new middle housing on that same parcel.

**PROPOSED ADDITION — OAR 660-047-0020(8)(E):**

*(e) A local government shall not determine that public facility capacity is available or adequate to support an Oregon Homes development if the local government, special district, or franchised service provider has disconnected, terminated, or withheld essential water, sewer, or access services from a residential occupant of the subject property or parent parcel within the preceding twenty-four (24) months, absent an administrative record demonstrating access to an equitable hardship review, structured payment alternatives, and clear criteria for nondiscriminatory service restoration.*

**3.3 Protect Residents from Displaced Solid Waste Storage Citations — OAR 660-047-0030(4)**

**Purpose:** Protect low-income occupants from municipal nuisance citations and liens when franchised waste collection has been denied due to financial hardship.

**PROPOSED ADDITION — OAR 660-047-0030(4)(C):**

*(c) A local government administering standards under this division shall not impose a site development penalty, nuisance citation, or code-compliance lien related to solid waste storage on an occupant or parcel where franchised collection services have been suspended or denied due to financial hardship, provided the occupant is engaged in an active hardship process, mediation, or alternative collection plan.*

**3.4 Establish an Affirmative Housing Preservation Standard — OAR 660-047-0015**

**Purpose:** Place an affirmative obligation on local governments to prioritize compliance and repair over punitive code escalation within the general administration of Division 047.

**PROPOSED SECTION — OAR 660-047-0015 [HOUSING PRESERVATION STANDARD]:**

*Local governments implementing the provisions of this division shall prioritize strategic, compliance-oriented code enforcement over punitive citations, fees, and lien generation. Prior to initiating enforcement actions that could culminate in condemnation, demolition, or displacement, local jurisdictions must establish pre-citation outreach protocols, provide referrals to state and local home repair assistance programs, and implement compliance incentives aimed at preserving existing residential structures.*

**SECTION 4: THE FISCAL AND SUPPLY REALITY OF REACTIVE ENFORCEMENT**

The fiscal impact analysis accompanying Division 047 fails to account for the substantial public costs of displacement:

- **Compounded Public Expenditure:** Administrative evictions and code-driven demolitions trigger direct municipal costs for law enforcement dispatch, judicial resources, emergency shelter placements, and physical blight remediation.
- **Depletion of Naturally Occurring Affordable Housing (NOAH):** For seniors, individuals with disabilities, and low-income families, existing modest single-family and manufactured homes represent irreplaceable shelter and financial stability.
- **The Net Production Illusion:** Demolishing one naturally occurring affordable home to build two or three market-rate middle housing units yields a net addition of only one or two units, achieved at severe financial, social, and municipal expense.

Division 047 must not serve as an administrative mechanism that allows a municipality to cite an occupant for conditions caused by utility termination or clouded title, attach property liens, facilitate condemnation, and subsequently celebrate the cleared parcel as an expedited housing production milestone.

## SECTION 5: ADA TITLE II COORDINATION & DUE PROCESS SAFEGUARDS

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Administrative records and public records disclosures demonstrate that local jurisdictions frequently fail to provide mandatory disability accommodation pathways prior to initiating code enforcement and utility cutoffs:

### 5.1 Mandates of ADA Title II (28 C.F.R. § 35.107 & § 35.130(b)(7))

Under Title II of the Americans with Disabilities Act (28 C.F.R. Part 35) and 28 C.F.R. § 35.107, public entities employing 50 or more persons are federally mandated to designate at least one employee to coordinate ADA Title II compliance (the “ADA Coordinator”), adopt and publish grievance procedures providing for prompt and equitable resolution of disability complaints, and provide reasonable modifications in policies, practices, or procedures when necessary to avoid discrimination on the basis of disability (28 C.F.R. § 35.130(b)(7)).

### 5.2 The Municipal Single-Point-of-Contact Gap (Record Evidence)

Recent public records disclosures from the City of Oregon City (Public Records Request Reference # R001464-092926, September 29, 2026) establish that when residents specifically request to speak with a single point of contact (an ADA Coordinator) regarding disability accommodations and safety violations, the City has no responsive policy. Instead of providing an accessible, coordinated administrative channel, municipal practice deflects residents across multiple disconnected departments or directs them to static website URLs.

When disabled occupants facing chronic medical conditions request reasonable accommodations—such as a continuance of a municipal code hearing, assistance with physical debris cleanup, or maintenance of essential domestic water service—the absence of an operational ADA single point of contact leads to immediate administrative default, crippling fines, and water shutoffs. Division 047 must require local governments administering middle housing programs to certify compliance with basic ADA Title II coordination obligations before exercising administrative land-use and facility authority.

If regulating local code enforcement procedures exceeds LCDC’s direct statutory purview under ORS Chapter 197, the Commission should formally refer these displacement vectors to **Oregon Housing and Community Services (OHCS)** and the **Housing Accountability and Production Office (HAPO)** to condition state infrastructure grants and middle housing subsidies on compliance-based preservation models.

## SECTION 6: RULEMAKING ADVISORY COMMITTEE RECORD AND PROCEDURAL DEFICIENCIES

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Administrative consistency and statutory legitimacy require the Commission to address substantial omissions in the rulemaking process:

1. **Failure to Address Lived Experience in the Committee Record:** Throughout Phase One MHOR RAC meetings, members repeatedly raised concerns regarding disability access, fixed-income vulnerability, and housing instability. The RAC meeting summary of July 9, 2026, explicitly concedes that the lived experience of housing instability received insufficient attention during policy deliberations. The interim V5 draft continues to reflect this omission.
2. **Absence of a Socioeconomic, ADA, and Legal-Vulnerability Impact Statement:** The May 20, 2026, RAC proceedings recorded explicit requests for equity and Americans with Disabilities Act

(ADA) analyses within the fiscal and racial equity impact statements. Despite these formal requests, the interim draft lacks a dedicated analysis examining how expedited middle housing infill standards interact with municipal code enforcement, tax and municipal liens, utility cutoffs, and clouded title foreclosures.

- 3. Required Commission Action Prior to Promulgation:** Before final adoption of Division 047, the Commission should direct DLCD staff to prepare and publish a *Supplemental Equity, Due-Process, and Lived-Experience Impact Analysis* evaluating the displacement risks identified in this comment, and produce a formal *RAC Comment Response Matrix* documenting precisely how comments, lived-experience testimony, and equity proposals submitted during Phase One were considered, incorporated, rejected, or referred.

## CONCLUSION

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A sound state housing policy cannot focus solely on the ribbon-cutting of new units while ignoring the administrative machinery dismantling existing homes. The national models from Los Angeles, Boston, San José, South Fulton, Louisville, and Providence—coupled with the direct evidentiary record from Gladstone, Gresham, and Oregon City—demonstrate that proactive compliance preserves communities, while reactive enforcement creates involuntary vacancy.

I urge the Land Conservation and Development Commission to incorporate the redline amendments to OAR 660-047-0010(8)(h), 0015, 0020(8), and 0030(4), and to complete the necessary supplemental impact analyses prior to final promulgation.

Respectfully submitted,

**/s/ Annika Eriksson**

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## REFERENCED EXTERNAL DOCUMENTS & STATUTORY AUTHORITIES

- DLCD Middle Housing and Oregon Homes (MHOR) Rulemaking Portal
- ORS 197A.300–197A.325 (Oregon Homes Legislation)
- Oregon Housing Needs Analysis (OHNA)
- Center for Community Progress: From Fines to Fixes
- 28 C.F.R. § 35.107 (Designation of Responsible Employee)
- City of Boston Rental Inspection Ordinance (CBC 9-1.3)
- City of Oregon City Municipal Code (Municode)
- OAR Chapter 660, Division 047 Rules (Secretary of State)
- Statewide Planning Goal 10 (Housing)
- Center for Community Progress: Code Enforcement Training Guide (Nov 2025)
- Title II of the Americans with Disabilities Act (28 C.F.R. Part 35)
- Los Angeles Systematic Code Enforcement Program (SCEP)
- City of San José Proactive Rental Housing Program
- City of Oregon City ADA Information Page