



THE BUREAU OF
**PLANNING &
SUSTAINABILITY**

October 2, 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 continues to support the State and LCDC 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, that they work as intended, and that they complement our locally adopted housing production strategies, including several projects currently underway.

We appreciate DLCD staff's many improvements to the draft rules from the July 29th version to increase clarity, add necessary fire and life safety reviews, and respond to several concerning legal issues. However, we continue to be concerned about the potential development outcomes from those policies that encourage large, expensive housing, add more uncertainty for builders in the development process, undermine bonuses intended to produce affordable and accessible housing, promote parking and garages, contradict climate friendly and walkable neighborhood best practices published by DLCD, and fail to adhere to the principles of sound infrastructure planning (Goal 11).



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1. Improper delegation - Eligible Oregon Home plans.

The problem: We raised this issue previously and understand that there may be changes to rescind this language from the draft rules. However, as comments are due on October 2, and the current draft of the rules (September 22, 2026) still includes this language, we feel compelled to reiterate our concern.

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

The solution: Delete references to Oregon Homes that include housing types that are “approved through local building code review” (see 660-047-0010(7)(e) and (8)(h)(D)).

2. Enables very large, and thus expensive units.

The problem: The rules replace most local development regulations but provide no limits on building height, very minimal setbacks, excessive lot coverage allowances, and provide for very large dwelling units. The revised rules have clarified maximum “buildable area” which is an improvement, but they continue to allow 8,800 square foot fourplexes (See figure 1), or 15,400 square foot 11-unit apartments (see figure 2), regardless of lot size. On more typical 5,000 square foot lots, these building sizes approach the city’s highest intensity multi dwelling zone outside central city. And notably, they would be allowed on over 100,000 lots regardless of zone.

One reason these size limits are critical is that from our RIP monitoring analysis¹ 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 1,000 square foot unit (\$300,000) and a 2,200 square foot unit (\$660,000) is 220% more expensive.

¹ Middle Housing in the Single-Dwelling Zones, Progress Report 2018-2024, City of Portland
<https://efiles.portlandoregon.gov/record/17159748>





Fig 1: Two duplexes, 8,000 sq ft \$675K ea on zillow



Fig 2: 11 units, 8,400 sq ft, \$1,300/mo rent (~55% of max allowed per MHOR rules)

The solution: HB2258, Section 2(5)(b) provides that “the commission may specify ...limits on land use, including establishing ...floor-to-area ratios”. The Commission is authorized to specify floor area ratios by housing type and could continue to rely on “buildable area” to provide the upper limit maximum. For example, a fourplex with a maximum FAR of 1 to 1 on a 5,000 sq ft lot would allow 1,250 sq ft units. But as the lots get larger than 8,800 sq ft, the fourplex would max out at 8,800 sq ft. An 11-unit apartment with a 1.5 to 1 FAR could be 7,500 sq ft on a 5,000 sq ft lot, and would top out at 15,400 sq ft on any lot larger than 10,300 sq ft.

Consistent with the city’s floor area standards for middle housing and smaller scale apartment zones, we recommend the following addition to the design standards:

Housing Type	Floor area ratio	Maximum buildable area
House	0.7 to 1	2,200 sq ft
Duplex	0.8 to 1	4,400 sq ft
Triplex	0.9 to 1	6,600 sq ft
Fourplex	1 to 1	8,800 sq ft
Cluster	N/A	1,400 sq ft average/unit
7-11 unit apartment	1.5 to 1	1,400 sq ft average/unit

3. Lack of local siting standards creates *greater* uncertainty for builders.

The problem: 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. Since those public works requirements are determined during the permit review, it is not until well after plans have been drawn and submitted that the need for revisions, resubmittal, or complete redesign is discovered.

The solution: 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. At the very minimum, the front setback should be increased to 10 feet to reduce the potential for these conflicts to emerge late within the review process.

4. Undermines bonuses for affordable and accessible housing

The problem: Zoning bonuses largely operate on three levers; FAR/density, height, and building coverage. The principle is simple. By providing a certain public benefit like more affordable housing, family sized units, or greater levels of accessibility, a development project is awarded more building entitlement in exchange. Specific implementation is more nuanced. Too little bonus or too strict the requirement, the less attractive the bonus is. Too much base entitlement leaves little room to offer meaningful extra bonus.

The lack of height limits, high amounts of building coverage, and large building envelopes envisioned by the rules essentially remove any meaningful incentive for middle housing and smaller scale apartments to provide affordable or accessible units.

The solution: The Commission is prevented from prescribing requirements for bonuses; however, this underscores the previously mentioned need to maintain reasonable limits on FAR, establish a building height limit, and set a more reasonable building coverage limit of 50 to 60%. This helps provide a benchmark with which bonuses can be added in order to achieve the types of units Portland and the state at large needs.

5. Promotes parking and garages

The problem: Oregon is suffering a housing for people crisis, not housing for vehicles crisis. While we do not object to the rules that allow cities to apply their parking requirements, the rules give preference to garages (and carports) by excluding those areas from the maximum buildable area limits: "Buildable area excludes the area of a carport or garage, or other non-habitable floor area of a structure." In addition to increasing the size and bulk (and price) of the associated housing, there are no limits on how much parking may be proposed. Space that is used for this parking comes at the expense of space on a lot that could have been used for additional units. From the city's report on middle housing production, fourplexes included parking just 10% of the time, where duplexes provided parking 74% of the time.

The solution: Don't subsidize garages. Instead, include that area within the buildable area/floor area limits. This creates a choice for builders but prioritizes housing for people. Alternatively, specify an upper limit on "free" garage space of 200 square feet.



6. Doesn't align with DLCDs own model codes (CFEC Walkable Design Standards. Housing Model Code)

The problem: These rules create yet another system of zoning standards that local governments are responsible for applying. In addition to locally adopted zoning regulations, DLCD also has recently adopted model codes that set benchmarks for cities to strive toward (CFEC Walkable Design Standards) or they can be required as part of a housing acceleration action (Housing Model Code).

While the CFEC guidelines and Housing Model Codes are generally consistent, there are a significant number of items lacking in the Oregon Homes proposed rules that were included in the model codes. For example, cottage cluster requirements (unit orientation, courtyard design standards, community buildings, pedestrian connections, windows and doors, parking location height limits, etc). In addition to adding to the confusion for applicants, neighbors, and staff trying to understand and administer three sets of regulations for the same properties, we question the underlying premise for why these model regulations have been summarily dismissed by the same agency that crafted them.

The solution: We do not see why the Commission could not adopt the housing model codes as applicable standards for the Oregon Homes program. While we have some reservations about how those rules align or don't align with our local standards, we will concede that they are a notable improvement from the proposed rules which do not include a number of these basic requirements.

7. Upends comprehensive infrastructure planning

The problem: State Land Use Goal 11 requires each city with a population greater than 2,500 to create a public facilities plan that meets its current and long-range needs. This includes identifying projected areas of growth (typically done through zoning designations and buildable lands inventories), assessing the current public facilities systems (water, sewer, storm, and transportation) and noting capacity or condition issues and necessary investments and upgrades required to support the projected growth. The Oregon Homes program is a blunt tool that largely ignores zoning. For example, the same 11-unit apartment that can be built in our highest density zone can be built in a zone that we have designated very low density "where public services are extremely limited or absent". Conversely, while minimum densities help to protect investments in high density areas; even here the Oregon Homes program provides significant latitude to underbuild on well-located transit-served opportunity sites where investments are planned, or capacity already exists.

Since the rules do not differentiate housing types by planned intensity of zones, they completely hamper our ability to properly and efficiently plan for and provide infrastructure to support our current and long-range needs.

The solution: Differentiate houses and middle housing from multi-unit buildings in terms of the areas where they are allowed. Restrict single unit and middle housing types from high density



corridors, to ensure more efficient transit supportive densities are realized in these areas. And limit multi-unit buildings in zones planned for fewer than 16 units per acre.

We appreciate the Commission's willingness to take additional time to allow staff to solicit additional feedback, and incorporate refinements. As mentioned, the revisions in the September 22 draft rules have greatly improved clarity and responded to many of the items and concerns we raised in our July 29th testimony. We hope that the 7 solutions we offer above will help put the finishing touches on these rules.

Sincerely,

A blue ink handwritten signature, appearing to be 'PD', followed by a long horizontal flourish.

Patricia Diefenderfer
Chief Planner

