



Date: October 2, 2026

Chair Lazo and Commissioners:

Thank you for the opportunity to comment on the draft Oregon Homes rules.

We greatly appreciate the time, work, and attention by Department of Land Conservation and Development (DLCD) to revise the draft rules in response to Eugene and other cities' comments. After reviewing draft rules Version 5, we believe the proposed rules remain problematic and still contain technical issues, as outlined below and in the enclosed technical issues list.

1. Urbanization of Unincorporated Lands

Of the issues that Eugene has identified with the draft rules, first and foremost is the effect of Oregon Homes Rules on unincorporated lands within the urban growth boundary (UGB). This issue needs to be more thoroughly addressed in this rulemaking effort. Eugene understands that applicability of the draft rules to "within UGBs" stems from HB 2258; however, implementing the rules as drafted within unincorporated lands raises significant questions and could result in negative outcomes.

This issue is of particular importance to the City of Eugene as our city's UGB includes a large amount of unannexed properties zoned for residential use. Generally, in Eugene, development of new dwellings (except ADUs) requires annexation, which in turn requires demonstration of sufficient available infrastructure. This annexation criterion ensures availability of urban utilities for future development, which is a fundamental aspect of orderly urbanization. Further compounding the consideration of how the draft rules will apply to unincorporated lands in Eugene, annexation was historically available to only properties contiguous to city limits. Beginning on January 1, 2027, noncontiguous annexation provisions will apply (HB 4108 (2026)). HB 4108 requires an existing connection to and service by utilities, unlike the draft rules at issue here. The draft rules could result in service by a well or septic tank, if permitted by regulating agencies. Moreover, the draft rules may create questions when implementing Eugene's extraterritorial extension procedure and amendments to Eugene's Land Use Code may be required.

Additional time for rulemaking would allow for full investigation and careful consideration of the implications of allowing Oregon Homes on unincorporated lands. City of Eugene

would like to better understand whether the Commission has the option to clarify the applicability of the Oregon Homes rules for unincorporated lands and/or adopt rules specific to unincorporated lands to ensure orderly urbanization. A preferred outcome would be to provide clarity in the rules that jurisdictions' requirements for annexation remain applicable or, alternatively, add requirements for an Oregon Homes Development to be served by urban utilities.

2. Clear and Objective Requirement Applies

ORS 197A.400 "clear and objective" requirements are required for housing in UGBs and the draft rules also provide that the process shall not be discretionary. Based on these directives, currently unclear terms and standards in the draft rules should be made clear and objective. To the extent that discretionary terms are included in Oregon Homes rules, lack of public notice when implementing such terms could invite costly appeals of a local jurisdiction's decisions to the Land Use Board of Appeals. The enclosed list of technical issues identifies terms Eugene has identified as needing clarity. We respectfully request that DLCD respond to these issues or amend the draft rules so that lack of clarity does not create uncertainty for developers and unnecessary appeal risk for Eugene and other jurisdictions.

3. Estimate of Eligible Tax Lots

In the July 29 and August 18, 2026 Land Conservation and Development Commission meeting materials, DLCD staff analyzed GIS data for Eugene and concluded that *"the anticipated proportion of lots eligible for Oregon Homes is very small ...less than 0.5 percent in a large city."* To test this assumption, Eugene conducted an analysis of our local data and compared that with DLCD's conclusion. Our finding is that DLCD's methodology focused on residential zones and did not include commercial, mixed use, and other zones that allow residential uses outright and therefore should have been counted. DLCD states that it used 2021 data; this data is not available to download, so it is unclear where it was obtained, and it is older data than the 2026 data used for the City's analysis.

Finally, the State's analysis did not include properties larger than 20,000 square feet that could be divided prior to application for an Oregon Homes Development. DLCD points to the 0.5% figure to illustrate that Oregon Homes rules will have a low impact to large cities such as Eugene, but this is based on incomplete/inaccurate methodology, which appears to result in an underrepresentation of the actual scope of applicability. Moreover, it is important to note that there will always be potential for redevelopment pursuant to OAR 660-047-0010(h)(D), so data analysis should not focus on vacant lands. Accordingly, City of Eugene finds that additional consideration and time should be given to understanding the scope of applicability of the proposed rules.

4. Other - City Efforts

As previously mentioned, while the intent of this rulemaking aligns with Eugene's housing production priority, it occurs at a time when cities like Eugene are already working diligently to implement many other substantial changes to state housing rules over the past few years, including Climate-Friendly and Equitable Communities, the Oregon Housing Needs Analysis (OHNA) and required urban growth boundary planning, new Middle Housing requirements (including HB 2138), a new model housing code, SB 974, and SB 1537 (among others). Eugene is in the middle of a City Council adoption process to make changes to several sections of Eugene's land use code, focused on implementing actions that reduce barriers to housing and job production, most of which are in response to state legislation. This is the first package of a multi-year urban growth planning project, Urban Growth Strategies, which includes the City's 20-year housing planning and production work under the new OHNA rules.

More new rules added to a mix of other new rules and laws currently being interpreted and implemented by local governments adds complexity rather than clarity, and risks undoing state-directed work already underway. Further, Eugene's City Council and community members continue to push for local solutions to address key housing needs and reduce barriers to development. Many of these local priorities, which include reducing process requirements for housing development, are being sidelined to address an increasing number of state requirements and legislative mandates with short-term deadlines.

Conclusion

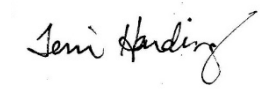
Improving processes to increase housing production is a critical priority for our community and the City of Eugene's housing planning work. This is especially important as Eugene needs nearly 26,000 new dwelling units over the next 20 years, per the 2026 Oregon Housing Needs Analysis. It is to this end that we want to ensure adopted rules are functional, do not lead to appeals, and ensure orderly urbanization.

We still encourage the Commission to not adopt the Oregon Homes rules as currently drafted, and to direct DLCD staff to take additional time² to further refine this draft so that the rules are clear and implementable, with positive local outcomes. Refining the rules and ensuring functionality would better support cities in their efforts to improve processes for increasing housing production.

² HB 2258 only requires the Commission to adopt *initial* rules implementing section 2 of the 2025 Act *on or before January 1, 2027*.

We appreciate the work of the Commission, DLCD, and RAC. Again, thank you for the opportunity to provide comments.

Sincerely,

A handwritten signature in black ink that reads "Terri Harding". The signature is written in a cursive style with a long, sweeping line extending from the end of the name.

Terri Harding, AICP
Planning Director

Enclosures

- Technical Issue List

Technical Issues List

This document identifies terms and provisions that, based on City of Eugene's review, should be defined or clarified.

OAR 660-047-0010 Definitions:

- (1) "Buildable area." This definition does not define non-habitable or floor area.
- (5) "Environmentally sensitive area." This definition explicitly includes Statewide Planning Goal 5, 6, 15, 16, 17, and 18. (8)(g)(B): "Open space or scenic areas" remains undefined. It appears that both terms originate from HB 2258 and while the draft rules clarify the meaning of "environmentally sensitive," the meaning of open space or scenic areas is not further defined or clarified and can be interpreted in different ways.

(8)(a): "Lot or parcel" that is a "Lawfully established units of land" should be clarified as "lawfully established unit of land" is often a discretionary term/process. The definition of Oregon Homes Lot at (h) also includes "Vacant, including a lot or parcel: (A) Created by any lawful division of land, regardless of when the division occurred, in accordance with ORS chapter 92." To the extent this is intended to reference the definition of lot and/or parcel at ORS 92.010, that reference should be made more specifically. If that is the intended reference, "regardless of when the division occurred" need not be stated as a lawful division regardless of when the division occurred is implicit in the partition and subdivision process. However, if by referring to *any* lawful land division and ORS Chapter 92 as a whole, a broader definition is intended, then a clearer and more specific definition should be provided.

*Eugene offers a simple, well-established process for evaluating legal lot status based on the Eugene Code definition of "legal lot." For purposes of consistency, it would be preferable to allow applicability of local definitions and established process for legal lot verifications.

- (8)(f) "Not covered by slopes averaging more than 15%." This continues to be undefined and presents questions for implementation. For example, how does one calculate "coverage" of a lot or parcel, as well as an "average slope" given varying topography, property shape, and data sources for example? If not more specifically defined, this is likely to result in differing methodologies.
- (11) Site Plan. This includes reference to "Existing goal protected resources, if any are present on the site." Should the definition of Site Plan include Oregon Homes

Development and Oregon Homes Lot terms like environmentally sensitive and scenic/open space areas?

660-047-0020 Local Government Review Process:

- (1) and (2). The change of terms from “land use decision” to “decision” is appreciated. (2) states “Administration of this review shall only be to ensure compliance with standards provided in this division and shall not require the use of discretion, interpretation, or the exercise of policy or legal judgment.” It would add clarity to state that a “decision” on an Oregon Homes application is “not a land use decision” and to further specify that a decision is not appealable.
- Through (8), it is unclear whether public infrastructure requirements typically conditioned/required only after constitutionality findings are made in a noticed land use decision can be required. This raises questions regarding the provision of infrastructure in the long term if local governments cannot effectively condition improvements necessary and commensurate for development that have historically been required. The impacts of this issue could extend to future UGB expansion areas with compounding impacts on future neighborhoods.

OAR 660-047-0030 Design Standards:

- (1) and (2): “adjacent” should be defined.
- (3)(a): “Accessible and adaptable” should be specifically defined and for consistency, it would be helpful if the definition matches that within the OHNA rules and Model Housing Code. HB 2258 does indicate that ORS 197a.420 definitions apply to the bill language and it seems this could be easily clarified.
- (3)(c) “Off-street parking areas that are separated from the street lot line by a dwelling.” This could be further specified.

OAR 660-047-0050 Tree Standards:

- (2)(b) The proposed language related to removal of trees "not deemed unhealthy by a certified arborist" is problematic, as "unhealthy" is undefined.
- (3)(a): “adjacent” should be defined.