



Land Conservation and Development Commission
Oregon Department of Land Conservation and Development
550 Capitol St. NE, Suite 505
Salem, OR 97301

Via email

RE: Oregon Housing Needs Analysis (OHNA) Rulemaking and Model Code

Dear Members of the Land Conservation and Development Commission:

The City of Woodburn appreciates the opportunity to comment on the proposed amendments to OAR Chapter 6660 relating to OHNA rules and model code.

First, Woodburn wishes to express our supports for the comments and concerns submitted by LOC to revise draft rules to return to the Legislative intent of 1) providing true technical assistance and support to cities in addressing HAPO's housing production targets rather than increasing the administrative burden, and 2) providing voluntary safe harbors that provide certainty and lower legal risk in the Goal 10 and Goal 14 processes.

660-008-0075 Contextualized Housing Need: There are unrealistic data collection and evaluation expectations here. Jurisdictions have previously requested assistance with data collection under the current proposed rules. Instead, the list of mandated data sources to be used have ballooned beyond reasonable capacity of most jurisdictions. For example, the draft rules currently list eighteen (18) data sources to be used to evaluate housing needed and for a city, "the contextualized housing need must be informed at a minimum by the following information..." yet it also appears that "the department (DLCD) may update this repository as new information is available" meaning it is not clear to cities if and when the data we must rely upon will be readily available in a timely manner as we work through our HCA's and HPS or we will be expected to produce said data ourselves.

***Recommendation:** The Legislative intent was to provide assistance to local jurisdictions on collection of data rather than simply requiring additional data sources to be used. This does not solve any processes nor create efficiencies in HPS' and HCA's for communities. We are shocked by the top-down unfunded mandates coming out of these two years of rule making and the lack of understanding of local capacity DLCD appears to have on implementation.*

Further, in addition to adding the income homeownership targets to the HNA rules under OAR 660-008-0320, they are also improperly applied to the Contextualized Housing Need Analysis rule under OAR 660-008-0075.

OAR 660-008-0150, subsection 2: Land Use Efficiency Measure Rules include a “safe harbor,” but it is unclear what the legal basis is for the 20% density increase threshold that has been set or how an analysis would be completed to demonstrate meeting the safe harbor number.

Recommendation: *Greater clarity is needed around how jurisdictions could meet this safe harbor.*

Buildable Lands Inventory and Allocation: Regarding housing type mix, we are concerned the baseline ratios and expectations within rule are set statewide (OAR 660-008-0075(6), such as number of bedrooms. For example, a city with a large university student population may need more multi-family or single occupancy than a city that has little to no university population and has more need for middle housing for their workforce or multi-generational housing such as in a community like Woodburn. This ratio cannot be established statewide.

Further, to deviate from the statewide baseline, the expectation is a community use the “rebuttable presumption” approach which DLCD notes “ensures a heavy level of program design incentive and obligation” for local government to deviate from the baseline if they can demonstrate alternate need and are willing to risk the legal certainty that is frequently sought for this particular housing planning element. Said more simply, if we want to truly reflect our community, we will be forced to take on legal risk, cost burden, and additional unknown timelines.

Recommendation: *We ask that DLCD add limited, clear, and objective criteria for how a city can successfully rebut a state compliance pathway via realistic safe harbors rather than rebuttable presumptions that are clearly at risk to legal certainty.*

Summary: As written, these rules will not serve Oregonians and build more housing that reflects our residents’ needs. Rather, as currently written, they create a blanket statewide approach that does not serve Oregonians. The intent of the original legislation was to give our communities tools to more efficiently plan for housing needs, yet these rules miss that mark by instead overstepping statutorily in a way that will not help Oregonians.

Sincerely,



McKenzie Granum
City Attorney

Cc: Alexandra Ring, LOC