

September 27, 2023

House Interim Committee on Climate, Energy, and Environment
Oregon State Capitol
900 Court Street NE
Salem, Oregon 97301

RE: Remarks on Climate Friendly and Equitable Communities Rulemaking

Chair Marsh, Vice Chairs Levy and Levy, and Members of the Committee:

For the record, my name is Erik Kancler, and I am the City of Bend's lobbyist. I am here to provide testimony on Climate Friendly and Equitable Communities on behalf of the City of Bend, briefly outlining our experience with CFEC to date.

Our approach to CFEC has been to help develop a set of rules that is aggressive and implementable. In order for CFEC to be effective, it must be both of those things. Our experience to date has been mixed.

What's gone well

1) Work plan. We appreciate DLCD staff's approval of our proposed work plan, which was probably more creative than they expected and takes into account a variety of local needs unique to Bend.

2) Parking Minimums. We've finished our parking minimums policy. It went well and we continue to support a strong statewide policy. We're not interested in seeing this policy weakened, but we do understand many cities face local challenges that have yet to be addressed.

3) Climate Friendly Areas. We support the intent of the CFA rules and feel confident we can comply in Bend. Some earlier concerns have been addressed by the agency. Some significant concerns remain with how growth is allocated to CFAs and with assumptions about redevelopment within CFAs. A market study commissioned by DLCD found buildings taller than 85 feet are not likely to be economically feasible in Bend any time soon. As a result, we have doubts about the achievability of certain redevelopment targets. Since VMT reduction is ultimately tied to urban form, we have doubts as to how much VMT reduction we can realistically expect from CFAs.

What hasn't gone well, or rather, still concerns us

4) VMT Reduction Targets. We remain troubled by the VMT reduction portion of the rules associated with meeting the Statewide Transportation Strategy targets in draft rule 660-012-0910 and associated performance measures in 660-012-0905.

We are confident we can reduce VMT per capita as called for by CFEC. We understand our target is going to be somewhere between 0-20%. But we don't know where in that range our community-specific target will fall. It could be 1%, 19%, or anywhere in between. And it won't be known until after the rules are completed.

This number will be generated by a model which is in many ways an unknown to us. We don't have a clear sense of how it works. Whether we will have a say in how its parametrized. Whether we can help ground-truth it. Or whether the outcome will be challengeable if we believe it to be unreasonable.

Which means that this policy could either be something that's accomplishable and that we support or something that's not accomplishable and that we oppose. Back to our guiding principles, we know neither how aggressive nor how implementable the rules will be.

We believe that specific targets and performance measures should be included in the rules themselves rather than relying on governance by models, which we find troubling for a number of reasons.

5) Conflict with OHNA. We remain concerned that the VMT targets may prevent or inhibit future UGB expansion that will likely be needed to comply with HB 2001 and OHNA and meet our community's housing needs. We are doing all we can to support additional infill in Bend, build complete communities, and reduce automobile dependence. But we expect that a small-to-modest amount of expansion will still be needed to meet local housing need.

We want our housing policy to be as pro-climate as possible. We do not want climate policy to negatively impact our ability to provide housing or help to ensure economic prosperity for our community. OHNA rulemaking is set to begin later this year. The OHNA urbanization rulemaking process focused on implementing Sections 8 and 9 of HB 2001 will need to address these concerns in the event that they haven't already been addressed by the agency.

6) Funding. As the Legislature knows, we're lacking in meaningful state support for the time and effort that it will take (and has already taken) to fully comply with CFEC.

The ongoing costs of continued planning and ultimately compliance to reach the land use and transportation performance targets will be overwhelming for fiscally-strained cities like Bend.

Achieving the targets will require entirely new city functions like Transportation Options programs, enhanced capital expenditures for higher quality bike, pedestrian, and transit facilities, focusing limited resources for affordable housing and anti-displacement in CFAs, annual reporting and maintenance of data systems, enhanced transit services from a regional transit district, not to mention significant expenditures in underground infrastructure, such as wastewater facilities, to serve concentrated redevelopment called for by CFAs.

If the State of Oregon wants to see this policy succeed, in addition to addressing concerns raised here today, it will need to offer significant financial assistance to cities, either through direct financial support or increased flexibility for local revenue generation, including but not limited to long-overdue property tax reform.

Thank you for the opportunity to testify today and I'd be happy to answer questions.