



DATE September 17, 2025
TO Land Conservation and Development Commission
Housing Division, Department of Land Conservation and Development
SUBJECT Comments Re: Current OHNA Draft Rules for Divisions 21 and 24

Chair Hallová, Vice-Chair Lazo, and members of the Land Conservation and Development Commission,

Thank you for the opportunity to provide comment on the draft Urban Reserves rules (Division 21), Land Swap rules (Division 24), and the OHNA rules more broadly. As explained in greater detail below, our organizations are increasingly concerned about the direction the OHNA rules are heading.

To be blunt, the draft rules mark a significant step backward in solving Oregon’s housing issues, are contrary to both the spirit and letter of HB 2001, and once again place DLCD’s misinterpretation of Goal 3 above all other goals, including Goal 10. We submit this letter in hopes that the Department will review and revise the OHNA rules to ensure that these rules facilitate the overarching purpose of HB 2001 – planning for increased production – not more statewide mandates that fail to move the needle and will result in less housing.

By way of background, Oregon REALTORS® represents more than 17,000 real estate professionals across Oregon, who in turn represent hundreds of thousands of Oregonians including home buyers, sellers, landlords, and tenants. Oregon Homebuilders Association (OHBA) represents nearly 3,000 members engaged in the residential construction industry and advocates for affordable homeownership opportunities for all. League of Oregon Cities (LOC) represents all of Oregon’s 241 cities and assists them in building thriving communities through advocacy, training, and sharing best practices. The Association of Oregon Counties (AOC) is a non-partisan member organization that advocates on behalf of Oregon’s counties on issues that unite county governing bodies and have an impact on county functions, governance, budgets, and services they provide.

At the outset, it is important for us to reiterate to the Commission our shared understanding of the purposes of the Oregon Housing Needs Analysis (OHNA). From our perspective, OHNA was established to identify local market conditions affecting housing production,

affordability, and choice, and incentivize production-driven planning through predictable and transparent accountability measures.

At its core, OHNA was supposed to represent a clear break from the outdated model of generalized statewide planning that has consistently failed to deliver meaningful housing outcomes for Oregonians and one-size-fits-all mandates that are divorced from the economics and realities of home building. OHNA was also supposed to reduce analytical burden, minimize procedural redundancy and increase legal certainty for local governments as they amend their codes to facilitate production.

Given this context, we are extremely disappointed that much of the rulemaking process has strayed from the intent of HB 2001. Instead of driving meaningful changes for housing production, the RAC has largely become an academic exercise in planning theory, and at times focused on everything but housing production.

Concerns with Urban Reserve Rules (Division 21)

Since receiving the [most recent draft of the urban reserves rules](#) in the meeting packet for CAUTAC #27, our concerns have only grown, particularly as result of assertions made by staff during the September 4, 2025 meeting.

In short, our primary concerns are as follows:

1. Proposed OAR 660-021-0030 is inconsistent with the statute governing the designation of urban reserves. See ORS 197A.245(6);
2. The proposed rules fail to implement the legislative direction of OHNA to reduce analytical burden, minimize procedural redundancy and increase legal certainty for local governments. See HB 2001 §9(2)(c);
3. The proposed rules weaken the effectiveness of urban reserves for housing planning and transform a vital urban planning tool into another Goal 3 farmland preservation rule.

For the past two years, our organizations have made clear to the Department that the existing rules for urban reserves provide little to no incentive for a local government to go through the arduous process of designating them. This is why only a handful of jurisdictions have ever adopted them.

Our hope, upon the passage of SB 1537 (2023) and SB 1129 (2025) was that there would be a recognition from the Department that urban reserves are an important long term planning tool that we need to make easier for local jurisdictions to adopt – not more difficult.

Unfortunately, the proposed rules exacerbate existing issues with the rules and dilute the effectiveness of this planning tool.

For example, proposed OAR 660-021-0030(3) expands the number of categories in the priority framework for urban reserve designation, increasing the analytical burden on local governments rather than streamlining it, which is inconsistent with legislative intent. Moreover, OAR 660-021-0060(2) imposes a new threshold requiring 80% of existing urban reserve lands to be brought into the UGB before new lands can be added to the urban reserve. Not only is this nonsensical and poor policy, but it is also inconsistent with ORS 197A.245, as it ensures that new urban reserves will not be established given the impossibilities created by the prioritization rule.

These two issues together remove any sort of incentive for a jurisdiction to adopt urban reserves and make them even more technically burdensome, which is contrary to the legislature's intent when passing HB 2001. As drafted, the proposed rules serve to further restrict local flexibility without advancing housing production.

Most concerningly, the Department's rules fail to reflect the statutory criteria required under ORS 197A.245(6); criteria the Legislature explicitly intended to guide the designation of urban reserves. These factors are not only statutorily mandated, but they are also practical and appropriate for planning for increased housing production. ORS 197A.245(6), urban reserve lands must meet the following standards:

1. Can be developed at urban densities in a way that makes efficient use of existing and future public infrastructure investments;
2. Includes sufficient development capacity to support a healthy urban economy;
3. Can be served by public schools and other urban-level public facilities and services efficiently and cost-effectively by appropriate and financially capable service providers;
4. Can be designed to be walkable and served by a well-connected system of streets by appropriate service providers;
5. Can be designed to preserve and enhance natural ecological systems; and
6. Includes sufficient land suitable for a range of housing types.

Instead, the draft rules omit any reference to these six factors entirely, and import the prioritization framework used for UGB amendments under ORS 197A.285 and OAR 660-024-0067. This approach not only disregards the legislative intent of ORS 197A.245, but also reinforces a pattern in DLCD's rulemaking that elevates farmland and forestland protections (Goals 3 and 4) above other land use goals— like Goal 10 (Housing).

In short, the proposed rules flatly contradict the intent of the Legislature and, if adopted, will effectively eliminate any incentive for cities to establish urban reserves. Under the current

draft, cities gain no practical advantage from pursuing urban reserves. They might as well bypass the process entirely and seek a UGB expansion directly. This outcome not only undermines the statutory framework, it defeats the purpose of proactive, long-range planning.

We have repeatedly raised these concerns throughout the rulemaking process, but staff have made no meaningful changes and, at times, have continued to argue why Goal 3 must continue to be center stage in all aspects of planning.

The failure to correct these fundamental flaws signals either a disregard for legislative direction or a misunderstanding of how cities make land use decisions. Either way, the rules as drafted are unworkable and must be revised.

Concerns with Urban Growth Boundary Land Swap Rules (Division 24)

The issues mentioned above have also permeated the proposed Division 24 rules for land swaps, found in the [CAUTAC #28 meeting packet](#) (OAR 660-024-0070(3)(b)).

Jurisdictions currently use land swaps to promote growth, correct past planning mistakes, and respond to real-world development needs. Unfortunately, the proposed changes to Division 24 appear to eliminate or severely limit existing opportunities to use land swaps to meet residential, employment, and industrial needs. The proposed rules also unnecessarily complicate the land swap process by imposing excessive emphasis on increasing housing density. See OAR 660-024-0070(3) and (4). Read together, the rules make this far more complicated and are difficult to understand, which is counter to the statutory direction of OHNA.

Local governments increasingly rely on land swaps because the traditional UGB expansion process is dysfunctional, slow, costly, and often unworkable. In many cases, land is added to the boundary with the expectation it will develop, but real-world conditions make that impossible. Market realities frequently clash with mandated density targets or infrastructure standards, leaving land undeveloped and communities stuck.

The proposed rules ignore these challenges and instead continue to force jurisdictions to pursue planning decisions that don't make economic sense. This not only delays development, but it also actively undermines their progress toward OHNA goals.

It is unclear to us why the Department has taken this approach – again, there is no statutory direction (or policy reason) to make these tools harder for jurisdictions to use. As drafted, these rules make it more difficult to plan for housing and employment needs together. By layering on more restrictions, DLCD demonstrates a fundamental misunderstanding of how and why local governments make growth decisions.

Our Ask: Prioritize Goal 10 and Align Rules with Legislative Intent to Support Oregon's Housing Goals

We are extremely concerned by the continued misalignment of statutes with their implementing rules and DLCD's ability to draft rules that actually solve the problems the Legislature has directed them to. In light of these concerns, we urge the Department to reconsider its approach and revise the proposed rules to reflect both statutory intent and the practical realities faced by local governments and developers.

Planning tools must be accessible, flexible, and aligned with how jurisdictions actually plan for growth. The current draft fails on all counts. Without meaningful changes, these rules will obstruct housing production, undermine economic development, and erode public confidence in OHNA from the beginning.

Suggested Language for OAR 660-021-0030

(1) Urban reserves shall include an amount of land estimated to be at least a 20-year supply and no more than a 30-year supply of developable land beyond the 20-year time frame used to establish the urban growth boundary. Local governments designating urban reserves shall adopt findings specifying the particular number of years over which designated urban reserves are intended to provide a supply of land.

(2) Inclusion of land within an urban reserve shall be based upon the factors described under ORS 197A.245(6) and locational factors of Goal 14. Cities and counties cooperatively, and the Metropolitan Service District for the Portland Metropolitan Area Urban Growth Boundary, shall first study lands adjacent to, or nearby, the urban growth boundary for suitability for inclusion within urban reserves, as measured by the factors and criteria set forth under ORS 197A.245(6) and subsection (3) of this section. Local governments shall then designate, for inclusion within urban reserves, the amount of suitable land necessary to ensure an adequate supply of developable land as described in subsection (1) of this section.

(3) Land shall be found to be suitable for inclusion in an urban reserve if the land:

(a) Can be developed at urban densities in a way that makes efficient use of existing and future public infrastructure investments;

(b) Includes sufficient development capacity to support a healthy urban economy;

(c) Can be served by public schools and other urban-level public facilities and services efficiently and cost-effectively by appropriate and financially capable service providers;

(d) Can be designed to be walkable and served by a well-connected system of streets by appropriate service providers;

(e) Can be designed to preserve and enhance natural ecological systems; and

(f) Includes sufficient land suitable for a range of housing types.

(4) Findings and conclusions concerning the results of the consideration required by this rule shall be adopted by the affected jurisdictions.