



October 13, 2026

To: Commissioner Mark Bennett
Jon Jinings and Palmer Mason, DLCD

From: Mary Kyle McCurdy, Associate Director and Managing Attorney

Re: Housing in Unincorporated Communities - Preliminary Comments on Draft of
Sept. 30, 2026

I. Introduction

A primary rationale behind undertaking an examination of housing in unincorporated communities (UCs) was to increase housing and related opportunities for those who live and work in the rural areas where these communities are located. Commissioners and staff made additional comments that these places should not unfairly compete with nearby cities and towns, or price out those who currently live and work in rural areas by becoming exurban commuter communities or attracting second homes and short term rental opportunities.

The draft rules have strayed from these principles, at times due to vague language and in other places because of the draft policies themselves. Our specific comments are below. We start with some general observations:

- No factual basis has been provided about any of the unincorporated communities or even a fair sampling of them, regarding any of the critical information needed to determine what rule changes make sense. For example:
 - 12 of the 36 counties - one third - have never designated unincorporated communities. Does this mean these counties are not subject to these rules?
 - No information has been provided regarding the buildable lands, infrastructure, density, mix of uses, or maps of the UCs or any reasonable sampling of them.
 - Deschutes County has prepared a report titled [2024 Rural Housing Profile](#), which we have previously provided to the Department for this RAC. It is a thorough evaluation of the existing opportunities in the county for housing outside all UGBs - and inside the rural communities, resorts, and rural residential areas of the county. The report finds that the county already

has more than enough vacant residential parcels than it is projected to need for the next 20 years.¹ This is a clear example of why the Commission should pause this rulemaking until basic data is gathered about the status of existing UCs, and what if anything is needed to increase housing opportunities for those who live and work in these rural areas.

- The proposed rules create a “city lite” option with no obligation to actually plan for and invest in the housing rural workers and residents need. The proposed rules allow counties to designate and expand the community boundaries of Urban Unincorporated Communities (UUCs) and some Rural Communities (RCs) for housing, without holding them to the same housing standards that cities must meet. Goal 10 - which currently also applies to unincorporated communities - requires that “housing be provided to meet financial capabilities of Oregon households and allow for flexibility of housing location, type and density.” The proposed rules do not meet this Goal 10 requirement.

The state of Oregon issues an [annual report](#) with the total number of homes needed by every city in the state, and the rural areas of each county, broken down by income categories. This sets the targets that guide cities in complying with Goal 10 (and for cities over 10,000 in population, Metro, and Tillamook County communities, their Housing Production Strategies). These proposed rules do not require counties to even consider the actual income needs of those in the unincorporated areas of the county, or in and near a given UC. There is no obligation to assess the housing needs of those in the rural area and then tie those needs to the housing proposed to be allowed in the UUCs or RCs.

- This puts UCs and nearby incorporated cities and towns on an uneven and unfair playing field. Cities and towns have assessed their housing needs, provided land, and prepared and invested in public facilities to meet their current and future housing needs. These places are where schools, stores, and jobs are primarily located. Many of these rural towns and cities need and would like housing and economic development. If LCDC and other decision makers actually want to produce more housing

¹ See especially the tables on page 11, which show Deschutes County has the following opportunities for rural living of the next 20 years:

- Rural residential areas + two rural unincorporated communities (Terrebonne and Tumalo): 2944 vacant lots
- Resort areas (all): 714 vacant lots
- The remaining unincorporated communities: An unknown additional number of lots
- Historic and Rural Accessory Dwelling Unit eligible properties: 8,600 properties

more quickly, these cities and towns are where scarce public investments in infrastructure should be made.

- This also opens up many UCs and RCs to become places for second homes and short term rentals, further pricing out those who actually need to live in these areas.
- The current rules on unincorporated communities already allow *any* level of housing density that is supported by infrastructure and meets the needs of the rural area. Existing 660-022-0030 already provides definitions and a process that works and is focused on the rural needs and economies. These should remain, and be incorporated into the proposed new rules on whether and how some UCs can expand their boundaries.

II. Specific Comments

Section 660-022-0010 - Definitions (p. 25 of pdf)

-0010(4): “Developable land” definition refers to the definition in OAR 660-021-0010(5), which refers to, for residential use, 660-008-0005(7). Because that latter section is about developable residential lands inside UGBs, it refers to a need for buildable land for 20 years. Because we oppose the use of a 20-year time frame (see below), we recommend appropriately qualifying the use of the referenced rule without the time frame.

Section 660-022-0020 - Designation of Community Areas (p. 28-29 of pdf)

-0020(7): Allows urban unincorporated communities (UUC) to have a 20-year boundary. We oppose this proposal for the following reasons:

- If a UUC wants a 20-year boundary, then it should incorporate as a city.
- Cities are the places for a broad range of economic development, civic and cultural institutions, people, housing, etc.... , as established and reinforced by Goals 9, 10, 11, 12, and 14 and years of planning and investment by cities and the state. UUCs are in rural areas and emerged to and still function as serving a much narrower set of rural needs (housing, rural based economies, processing and transportation of rural products, even drone testing, etc...)
- UUCs should not be encouraged to basically compete with cities, but with less rigorous standards that are not designed to meet local housing needs.

Recommendation: Do not include the 20-year option for designation or expansion of a UC boundary.

Section 660-022-0050 (new) - Exceptions for Expanding Unincorporated Community Boundaries. Long Range Growth Capacity (pp. 36-39 of pdf)

-0050(1) and throughout: Changes “long term need” to “long-range growth capacity.” We find this very problematic for the following reasons:

- UCs are about serving rural areas and needs, and removing “need” removes this consideration entirely.
- If based on “capacity,” what does that mean? Capacity of what, for what? For example, if an area has enough water and/or electrical capacity for a data center, can a data center be located there? Or any other large industrial user who is looking for easy access to water or power.
- Why insert the term “growth”? Growth is to be encouraged inside UGBs, not in rural areas. Some UUCs and RCs might be experiencing growth or expected to grow, but again, then base any expansion on the need to meet local, rural growth, coupled with whether there is water and sewage capacity to accommodate it. The proposed language seems to be encouraging growth based simply on “capacity.”
- What is the definition of “long-range growth capacity” and who measures it? Counties have stated throughout every planning process that they lack staff to revise existing plans and codes or to enforce permits.

Recommendation: Use a term like “long term need for housing to serve the UUC/RC and rural area, provided there is water and sewage service for the existing community and this service will be provided concurrently with any expansion.” Again, look to existing rule language in 660-022-0030 for guidance.

-0050(1)(a): This allows a UUC or RC that is already served by “community sewer and water systems” to expand their boundaries if (A) the existing systems have capacity or (B) if there is a plan in place “showing how and when existing services will be expanded.” We object to (B) for the following reasons:

- A “plan” is not enough. We have seen plenty of plans sit on shelves and never be executed because of lack of financing, or the funding takes many years and costs more than anyone anticipated.

- Therefore, the funding and service must be concurrent, which is in the existing rule (at -0040(5)(b)) and is repeated here, in -0050(4) on p. 37. Incorporate that language here.
- Again, what if one big user comes in and builds the water and sewer system for itself, and uses all or most of the water, energy, or other “capacity.” This is not a far-fetched scenario, as we are seeing now with data centers.
- As best as we know (because no data has been provided to inform this rulemaking, everything is anecdotal), many of the UUCs and RCs that have community water and/or sewage systems have one or the other but not both, and in either case, the systems often do not cover the whole community but rather a portion of it. So, under the proposed rule, could a UUC or RC expand if only part of the existing community was served, but there was a “plan” to serve the expansion area? And skip over the existing, unserved community? This very scenario has been found to violate Goal 14 for cities - a UGB expansion cannot come at the expense of serving existing areas inside the existing UGB.

Recommendation: Require that the water and sewage systems serve the entire community prior to any expansion, and that the expansion area will be served concurrently with development. Use the existing rule’s concurrency language.

-0050(1)(b): This section provides that for UUCs only, the boundary can be expanded even if the UUC is closer than the 20 or 10 mile current limit from a UGB if a few criteria are demonstrated.

- We do not object to this conceptually, but the criteria have to be tight, and (ii) is not. We object to the proposed language. It states: “The UUC will provide housing opportunities that are not easily accommodated within UGBs (i.e., Farmworker housing).” Here are some problems we see with the language:
 - If a nearby town or city is not providing housing opportunities for large lot detached homes, is that sufficient to expand a UUC? How does that relate to the housing needs of the existing and projected rural population?
 - If the land in the UGB is more expensive, even slightly, than the UUC, is that sufficient? Because cities have already invested in the full array of infrastructure, schools, roads to stores, etc..., the land and housing is likely to be less expensive.
 - If the nearby city is making it hard to locate affordable housing for those who work in that city, is that a sufficient reason to locate regulated housing for lower income people in a UC, where it will be out of sight to those living in the city?

Recommendation: We recommend that the criteria should be something like “The County will adopt planning, zoning, and other housing and financial related tools in the expansion area to make it reasonably likely the housing will be affordable to those who live and work in the UUC or in the nearby rural area.” The County’s housing needs analysis for any UC must be based on the DAS projections of housing needs, by income level, in the rural area.

-0050(2): Section is about how to demonstrate “long-range growth capacity for housing and employment.”

- Again, why is the rule focused on "growth capacity"? This should be about rural needs.
- (2)(a)(B): Allows use of a “safe harbor” growth rate for UUCs and RCs. We object to this, because it assumes growth, whether there is any projected or not. Again, it is also not tied to housing needs by income level in the rural area.
- It builds in an uneven playing field of competition with nearby towns and cities, many of whom actually need that growth and investment, and this will just enable stealing it from them. These are rural towns that need infrastructure investment, and who have done the work to provide the zoned land, and provide services, schools, and stores, and they have aging infrastructure that needs upgrades, etc... This is nonsensical.
- (2)(b),(c): Requires “consideration” of “plans to extend facilities & services to existing community land” and of the “infill potential” of the existing community. The term "consideration" is not acceptable.
 - “Consideration” is an empty term. It means “think about it” and then carry on without integrating it into any decision.
 - This is a far lesser requirement than cities must follow to expand UGBs. Cities have to demonstrate that they are already making efficient use of residential lands, that the expansion won’t harm existing ability to serve the existing areas, that they have adopted land use efficiency measures, etc... . The rule as proposed will encourage sprawl out of UUCs.
- The reference in -0050(4)(a) to (3) does not make sense, based on the (3) immediately above it.
- -0050(4)(d)(A)-(F) (on pdf p. 38): We have many objections:
 - (A) Why require 40% (or any percentage) of the added lands to be zoned for multi-family housing but not require the same inside the existing UC? This illustrates another place in the proposed rules where counties, in the UUCs and RCs, do not have to follow Goal 10 and ensure that the *existing*

community has adopted land use measures to provide housing opportunities to meet the needs of the rural area prior to expanding the boundaries that cities have to meet. This allows skipping both Goal 10 and a Goal 14 need analysis. It does not meet housing needs or protect farm and forest lands or natural areas from unneeded expansion of development.

(C) Why provide for a “conditional” approval of manufactured home parks and 2- and 3- plexes? Allow them outright.

(F) This does not make sense to us - how does a county determine and enforce that a “new lot or parcel” is “created for and dedicated to multigenerational households”?

- -0050(7): Repeats the 20 year allowance for UUCs, which we do not support.
- -0050(8) and -0055(2): Is there a definition of “lands subject to identified natural hazards”?
 - Because there is no wildfire hazard map, how would (8)(a) about defensible space and home hardening be enforced. Does any county now have “wildfire” identified and mapped as a “natural hazard”? Or any other natural hazard map adopted under Goal 7?

Recommendations: The following language should be incorporated into appropriate subsections of proposed -0050.

- (1) Changes in zoning and the addition of land added to an unincorporated community, with the characteristics in subsection (4), are allowed to help meet the housing needs of those employed or projected to be employed in or near the unincorporated community, such as in agriculture or forestry industries in the surrounding area.
- (2) The housing needs of those employed or projected to be employed in or near the unincorporated community are based on the income categories and targets for the county’s rural area as published in the most recent Department of Administrative Services’ Oregon Housing Needs Analysis, as well as household size, age, and other relevant factors.
- (3) Counties must demonstrate that the housing needs to be met in the unincorporated community are not already addressed or accounted for in the housing needs analysis and housing production strategies for the urban growth boundaries of cities in the county.

Section 660-022-0055: Expanding Unincorporated Community Boundaries. Accommodating a Specific Use (pp. 39-41 of pdf)

- -0055(1)(b)(A): This language is open-ended enough to allow data centers and other large, possibly unwanted, overwhelming users in UCs. It allows an expansion for a specific industrial use if the use would have a "significant comparative advance due to its location such as, for example, that it must be near a rural energy facility...."
 - For example, because a large part of the electric grid is in rural areas, especially the high capacity transmission lines, which are attractive to data centers, this could provide a "significant comparative advantage." Is that what is intended here? What about a large user who simply needs access to large quantities of water? These are current examples in rural Oregon, many of which are being met with opposition.
- -0050(2)(a), (b): Same comments as above regarding wildfire and other natural hazards. Without a wildfire hazard map, and other natural hazard maps adopted pursuant to Goal 7, at the state or county level, this seems impractical and unenforceable.

Section 660-022-0060: Land Priorities for UUC 10-year long-range growth potential and all UCs responding to a specific rural use (pp. 41-42 of pdf)

- Throughout, this just raises the question of why "growth potential" rather than "rural need"?
- All the deletions from existing rules simply negate a showing of "need." That's less than cities must show to expand their UGBs. These rules must incorporate the same requirements for need, and the ability to provide services within the existing boundary as well as the expansion area prior to expansion that cities must show.