



March 2, 2023

Chair Maxine Dexter
House Committee on Housing and Homelessness
900 Court Se. NE
Salem, OR 97301

RE: Eugene Technical Comments on HB 2001, -11 amendment.

Chair Dexter, Vice-Chairs Gamba and Helfrich, and members of the Committee, the City of Eugene requests that the Committee initiate a stakeholder workgroup to produce a 'technical fix bill' to HB 2001 (-11) addressing the issues identified below. Eugene is appreciative of the efforts to amend the previous amendments, yet as you heard from Mayor Vinis, LOC, and others, there are still areas that must be clarified before the end of the session. Without this additional clarity, cities like Eugene will face increased challenges in implementing the new laws.

Section 9, subsection (4): Change January 1, 2026 to January 1, 2027.

Background: In 2020, LCDC adopted rules that set a December 31, 2026 deadline for Eugene's adoption of a Housing Capacity Analysis (HCA) (including buildable lands inventory, adoption of land efficiency/housing production measures to accommodate our housing need and/or UGB expansion). Since that time, we have been diligently setting up our work plan to account for this project. This includes requesting additional funding from the Eugene City Council, hiring limited duration staff, making sure there's room within the Planning Division's current work plan to accommodate the work and coordinating with partners in other city departments who will have a role (such as Public Works). Work is already underway on our buildable lands inventory.

It's our understanding that LCDC has the authority to change Eugene's housing capacity analysis adoption deadline; however, relying on this process to occur introduces a high degree of uncertainty, impacting our current work, funding and staffing.

Technical Element: Section 9, subsection (4) provides for LCDC to postpone the applicability of the new laws for cities until a date not later than January 1, 2026. Because Eugene's deadline for adopting a HCA is December 31, 2026, we would not be able to postpone applicability, and would need to proceed now under the laws, which are proposed to become effective upon passage of HB 2001. However, the "allocated housing need" relied upon in HB 2001, will not be available until January 1, 2025 (nearly two years from now). DLCD's companion rulemaking for related housing and urbanization rules that will we also need to comply with for our HCA process will not be in place until January 1, 2025 or January 1, 2026, depending on the topic. This gives us one or maybe two years to complete a complicated process with a new set of untested laws, which is untenable. In our recent experience, this level of work will require four years to complete.

Request: The city's preference is for HB 2001 Section 9, subsection (4) to be revised to "*not later than January 1, 2027*" to account for Eugene (the only city with a housing capacity analysis due in 2026).

Additional Technical Issues within HB 2001 -11 amendment

The following items must be addressed to ensure efficient implementation of the Legislature's vision for HB 2001.

1. *Section 13, subsection (1)(a):*
Revise to "Currently eligible for annexation", to acknowledge the realities (in Eugene) that most vacant or partially vacant residential properties are not annexed until right before the development process commences, presumably because the owners don't want to pay the additional taxes.
2. *Section 12, subsection (2):*
The term "development-ready lands" needs to be defined.
3. *Section 14, subsection (5)(a):*
ORS 197.637 does not require "affordability policies." Reference needs to be corrected
4. *Section 14, subsection (5)(b):*
Reference to public body in subsection (4)(j) is incorrect and should be (4)(i)
5. *Section 16, subsection (4):*
Amends ORS 197.320 to add a new subsection (13) which lists four new bases upon which LCDC may issue an enforcement order against a city with a population of 10,000 or greater. Those new bases for an enforcement action will be available for citizen-initiated enforcement pursuant to ORS 197.319(1), Commission-initiated enforcement pursuant to ORS 197.324, and DLCD staff-initiated enforcement pursuant to the amendments to ORS 197.319 made by Section 15 of the -11 amendments.
Eugene expects that these new bases for LCDC enforcement could lead to a significant uptick in citizen-initiated enforcement petitions which would create a fair amount of work for DLCD staff and the Commission in responding to the petitions. The City requests that the A Engrossed bill be amended to only allow DLCD staff or the Commission to initiate enforcement actions based on ORS 197.320(13).
6. *Subsections (c) and (d) of the -11 amendments*
ORS 197.320(13) relate to failure to enter a housing acceleration agreement or breaching a term of a housing acceleration agreement. The City agrees that it makes sense for DLCD staff and/or LCDC to be able to initiate enforcement actions related to housing acceleration agreements, but the City does not see that anything will be gained by allowing citizens to bring enforcement actions related to housing acceleration agreements. DLCD staff are in the best position to know if a city is being recalcitrant in signing a housing acceleration agreement or has breached the agreement, so initiation of enforcement actions under at least those subsections should be limited to DLCD staff and the Commission.
7. *Subsections (a) and (b) of ORS 197.320(13):*
Amend to clarify that subsection (a) is intended to apply to cities whose pattern or practice of violation creates additional unnecessary cost and delay, and not to violations of statutes or rules that themselves cause unnecessary cost or delay. There also appears to be a disconnect

in subsection (b) between violation of a pattern or practice of creating adverse disparate impacts to protected classes or inhibiting equitable access to housing choice and the reference to ORS 197.290(2)(b) to (d), which is a directive to include specific actions in a Housing Production Strategy. Some clarity about what constitutes a violation under subsection (b) would be helpful.

8. *Section 22, subsection (5):*
Add “unmet” before “allocated housing need” to clarify these actions are only required for the unmet portion of the need.
9. *Section 22, subsection (6)(a):*
Revise to clarify that this applies to any amendments under sub-section (5), and insert “applicable” before goals and rules to clarify that the city only needs to address applicable goals and rules, not all of the goals and rules.
10. *Section 22, subsection (6)(c):*
The term “likely to be achieved by the housing market” needs clarification.
11. *Section 23, subsection (4):*
It is not clear how a city would or could demonstrate (a) through (c) of subsection (4).

The City of Eugene has expended considerable effort by our land-use staff, Planning Director, Assistant City Attorney, and IGR team over the past 4 months in engaging with the Legislature and DLCDC staff to provide clarity and input on the OHNA process. This has been our practice for a number of years as Legislative leadership has brought forward substantial changes to Oregon’s land use and housing laws. We remain committed to be an equitable partner in this work and remain ready to work collaboratively in this endeavor.

Thank you for your time and consideration of our requests.

Sincerely,

//submitted electronically//

Ethan Nelson
IGR Manager