



March 4, 2025

House Committee on Housing and Homelessness
Oregon State Legislature
900 Court St. NE,
Salem, OR 97301

RE: Requested Amendments for HB 2138

Chair Marsh and members of the House Committee on Housing and Homelessness,

Thank you for the opportunity to provide testimony on the proposed amendment to House Bill 2138. The City of Beaverton is grateful for the opportunity to work with the Governor's office over the last few months to share comments and concerns on the proposed language. While the concept has improved, a few concerns remain, which Beaverton would like to help the Governor's office address as the bill progresses.

First, the changes in the dash-one amendment that removed the prohibition on exactions for middle housing align the bill more closely with Beaverton's goal of creating consistent and connected communities. Transportation-related exactions, such as frontage improvements, are essential for constructing streets and sidewalks. Many developed areas still lack basic infrastructure, and it is challenging to differentiate between greenfield and infill development. This distinction is crucial to prevent developers of larger areas from using infill code loopholes to avoid building out streets and sidewalks.

The new focus on offsite improvements retains crucial tools cities need to ensure adequate streets and sidewalks are constructed with development. However, the proposal still poses challenges for proportional share fee structures sometimes used to fund needed nearby projects, such as safety improvements to intersections. Beaverton recently adopted a funding tool called Reimbursement Districts that allows developers to propose sharing the cost of an infrastructure improvement proportionally among properties where future development would contribute to the need for that improvement. Though a single middle housing development may not significantly impact the transportation system alone, over time, multiple smaller developments could add up to create infrastructure deficiencies and unsafe conditions.

Beaverton is very concerned that the proposed amendments represent a major shift in the burden of proof for meeting infrastructure requirements. The amended language would require the City to provide a clear and objective path for urban services when an application has been denied or approved with a condition requiring project modifications.

As stated, clear and objective requirements for urban services are often not appropriate where professional judgment and discretion are necessary to ensure compliance with state and federal requirements as well as to ensure public safety. Currently, it is the obligation of the applicant to demonstrate that the proposal meets the approval criteria. Shifting the burden to a permitting jurisdiction to find only clear and objective ways for the applicant to meet urban services requirements is legally significant and has the potential to make land use application review significantly more time consuming and potentially unworkable if clear and objective solutions do not exist.

In addition, this requirement is likely to conflict with land use applications that are permitted to have discretionary approval criteria under state law. These are crucial for the practical realities of development review because discretionary pathways provide flexibility when a proposal cannot meet clear and objective standards. It is impossible for clear and objective standards to anticipate every challenge on a site or every creative idea that may be proposed.

Beaverton supports middle housing in urbanized areas and is not opposed to generous density allowances for affordable or accessible housing. However, Beaverton already allows and sometimes requires higher density and a wider range of housing types than the minimum required under state law. The proposed density bonuses have the effect of penalizing cities that proactively increase density by requiring the allowance of still more density. The state is creating perverse incentives to keep local regulations more restrictive in anticipation of the state requiring further modifications without regard to what requirements are already in place locally and whether those requirements support or unduly constrain housing development. Additionally, the bill requires tracking the affordability of these units for at least 10 years, but it is unclear who will be responsible for overseeing this program. Tracking affordability restrictions is an administrative burden that many cities are ill-equipped to handle.

Finally, many of the concepts designated in the proposal for DLCD to study are also addressed in Housing Production Strategies that cities will be implementing themselves. Beaverton is concerned that these studies could lead to changes in codes that have already been updated through the implementation of the city's Housing Production Strategy and are tailored to the needs of our community.

In conclusion, Beaverton appreciates the Governor's Office and the Committee's efforts to make housing more accessible for all Oregonians. We are committed to working through the practical implications of these provisions to ensure they work for local governments responsible for implementation. I urge the committee to consider our comments and questions to ensure a balanced and effective approach to housing development in Oregon.

Thank you for your attention to these important matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Jenny Haruyama".

Jenny Haruyama

Beaverton City Manager