

OREGON HOUSING NEEDS ANALYSIS RULEMAKING

CHARTER, OPERATING PRINCIPLES, AND GUIDELINES

Updated September 1, 2023



I. BACKGROUND AND PURPOSE OF THE OREGON HOUSING NEEDS ANALYSIS RULEMAKING

In March 2023, the Oregon Legislature adopted, and Governor Tina Kotek signed into law, the “Affordable Housing and Emergency Homelessness Response Package” – (House Bills 2001 and 5019) to help address the state’s housing and homelessness crisis. Among other policies and investments in housing and homelessness response, the legislation codifies the Oregon Housing Needs Analysis (OHNA) policy. This policy will fundamentally shift Oregon’s approach to housing planning in a way that empowers cities to take actions that meaningfully increase housing production, affordability, and choice.

Specially, House Bill 2001 (2023 Session) directs the commission to adopt and amend rules related to Goals 10 (Housing) and 14 (Urbanization) as well as housing- and urbanization-related sections of Oregon Revised Statute (ORS 197.286 to 197.314). The intent of this rulemaking is to refocus the implementation of Goal 10 from a narrow focus on housing capacity towards a more comprehensive framework that emphasizes local actions to promote housing production, affordability, and choice within their community and across the state. This includes adopting or amending rules related to the following issues outlined in Section 8 (3) of the bill:

- “(a) Needed housing;
- (b) Housing production strategies or housing coordination strategies;
- (c) Buildable lands or housing capacity;
- (d) Amendments to urban growth boundaries, including under ORS 197.296 (6)(a), 197.299, 197.764 and 197A.300 to 197A.325 and section 22 (5)(a) of this 2023 Act; or
- (e) Adoption or amendments to urban reserves or rural reserves under ORS 195.137 to 195.145.”

Department of Land Conservation and Development (DLCD) staff determined that rulemaking could be categorized into three major topic areas, with direction and deadlines specific to each:

1. Housing Needs and Production
2. Housing Capacity and Urbanization
3. Housing Accountability

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For **Housing Needs and Production**, DLCD and the Land Conservation and Development Commission (LCDC) have been tasked with a number of major changes to the implementation of Goal 10. This includes changing the determination of “needed housing” to align with the Oregon Housing Needs Analysis and plan for a greater diversity of housing choices with flexibility in location and characteristics. Additionally, the bill changes the Housing Production Strategy statute (ORS 197.290) to align with fair housing planning, which will require further operationalization in rule and guidance. Finally, the bill directs DLCD and LCDC to develop ‘off-the-shelf’ policy options cities can consider that increase housing production, affordability, and choice, ranging from a variety of policy options, from zoning to development review, to public facilities planning, and beyond. The rules for this topic area must be adopted by January 1, 2025, but supplemental guidance materials may be completed at any time if they are not adopted as an attachment to the rule.

For **Housing Capacity and Urbanization**, the bill directs LCDC to provide greater clarity and certainty in the adoption and acknowledgement for both housing- and urbanization-related planning processes. This includes providing robust rules and guidance to provide clarity and certainty on appropriate methodologies to inventory buildable lands and calculate housing capacity as well as in relationship to urbanization processes to facilitate a UGB amendment where a need is identified. This includes work related to the buildable lands inventories, UGB amendments, UGB land exchanges, and urban reserves. Where possible, this work should be closely coordinated with public facilities planning to ensure that land within or brought into the Urban Growth Boundary is development ready. The rules for this topic area must be adopted by January 1, 2026, but supplemental guidance materials may be completed at any time if they are not adopted as an attachment to the rule.

For **Housing Accountability**, the bill amends the “Housing Accountability” statute (ORS 197.293) to establish a framework by which DLCD evaluates local government progress towards housing production targets and outcomes. Where a local government is underperforming relative to their regional and market peers, the statute requires DLCD to refer the local government to a “Housing Acceleration Program”, in which DLCD conducts an audit of state and local barriers to housing production, affordability, and choice in that community and prepares recommendations to address those barriers. The local government may either be required to address this in their next subsequent HPS or, if the barriers are the result of policies and practices directly within the cities control, they may be required to amend their HPS and adopt actions on an expedited timeframe. DLCD and LCDC will need to articulate a clear and consistent framework by which local governments progress is tracked and evaluated, as well as when cities are referred into the acceleration program, the scope and extent of issues that are evaluated, and the steps necessary to ensure that cities are taking meaningful actions within their control to facilitate housing production, affordability, and choice. The rules for this topic area must be adopted by January 1, 2025.

The Housing Rulemaking Advisory Committee’s Charge

Members of the Rules Advisory Committee shall provide guidance to agency staff to analyze, draft, and recommend Oregon Administrative Rules (OARs) that faithfully implement the legislative intent and direction outlined in Sections 8 and 9 of House Bill 2001 (2023 Session). RAC members are charged to work with agency staff to recommend OARs for Land Conservation and Development Commission consideration that:

- *Commit to safe, accessible, climate resilient, and affordable housing options that afford access to opportunity, including Community Assets¹ and fair housing choice, for all Oregonians, especially historically and currently underserved and under resourced communities². Develop and provide local governments with the tools needed to achieve these goals through the implementation of local Housing Production Strategies.*
- *Provide clarity and greater certainty to local governments engaging in urbanization- and housing capacity-related planning processes both with regards to regulatory adherence and the desired development outcomes. This includes refinement of methodologies and approaches for the development and adoption of buildable land inventories, urban growth boundary amendments and exchanges, urban and rural reserves, and coordinated public facilities and concept plans.*
- *Establish a reasonable and consistent framework of accountability that measures progress towards a community's market rate and subsidized housing production targets and ensures state and local governments take policy and regulatory actions within their control that meaningfully and impactfully facilitate increased housing production, affordability, and choice.*

Overview of Rulemaking Advisory Committee Role

Oregon's Land Conservation and Development Commission has asked members of a Rulemaking Advisory Committee to recommend rules as described above. The role of the RAC is to be:

- Advisory to staff – it is not a voting body;
- Provide policy direction and guidance – it is not intended to seek consensus;
- Receive, evaluate, and provide direction for work for Technical Advisory Committees (TACs) on the draft rules and guidance materials to consider;
- Considered “volunteers” by the state and will receive an overview accordingly;
- Supported by DLCD staff and/or project consultant teams;
- Will comply with open meeting, public record and ethics laws;
- May submit claims for mileage; and
- May participate from remote locations.

¹According to the U.S. Department of Housing and Urban Development's (HUD) proposed AFFH rule, “Community Assets” refers to the types of assets that are often not equitably distributed and available within communities, such as high quality schools, equitable employment opportunities, reliable transportation services, parks and recreation facilities, community centers, community-based supportive services, law enforcement and emergency services, healthcare services, grocery stores, retail establishments, infrastructure and municipal services, libraries, and banking and financial institutions.”

² As defined in the [Governor's racial equity plan](#).

For the advisory process to operate smoothly, it is helpful to agree at the outset on the purpose of the effort and the procedures the group will use to govern its work.

II. MEETING PRINCIPLES AND SUGGESTED GUIDELINES

A. GOOD FAITH

All members agree to act in good faith in all aspects of the rulemaking process, in accordance with the charge, principles, and direction established by the Oregon Legislature and Land Conservation and Development Commission. As such, members will consider the viewpoints of other participants and conduct themselves in a respectful manner that promotes collaboration.

Acting in good faith also requires that:

- Specific proposals made in open and frank problem-solving conversation not be used against any other member in the future;
- Personal attacks and prejudiced statements are not acceptable;
- Individuals do not represent their personal or organization's views as views of the advisory committee;
- Individuals express consistent views and opinions in the advisory committee meetings and in other forums, including contacts with the press (see Section VI(B)); and
- Individuals with process concerns will raise them in the committee.

B. PROCESS SUGGESTIONS / GROUND RULES

Advisory committee members agree to apply the following ground rules:

- Honor the agenda and strive to stay on topic;
- Speak one at a time;
- Allow for a balance of speaking time – respect time limits;
- Bring concerns and ideas up for discussion at the earliest point in the process;
- Address issues and questions, not people or organizations;
- Avoid personal attacks;
- Listen with respect;
- Avoid side conversations; and
- Share preferred personal pronouns as part of name identifier in video calls as one is comfortable doing so.

And consider the following process suggestions:

- Seek to learn and understand each other's perspective;
- Encourage respectful, candid, and constructive discussions;
- Seek to resolve differences and find common ground;
- As appropriate, discuss topics together rather than in isolation; and
- Make every effort to avoid surprises

III. DECISION MAKING PROCESS

The RAC is charged with advising department staff on the development of administrative rules to implement HB 2001 (2023 Session). Though this advisory committee is not a voting body, LCDC's goal in convening this set of diverse and experienced stakeholders is to receive individual and group guidance for staff on implementable rules. The advisory committee facilitator and staff will record and consider all points of view. Staff will work to develop a set of rules that reflects the guidance from members of the committee. Committee members are welcome to express their concerns in writing. All communications of this nature will be included in final recommended drafts for commission review.

IV. ORGANIZATIONAL STRUCTURE AND PARTICIPATION

A. MEMBERSHIP AGREEMENTS

All Rulemaking and Technical advisory committee members agree to the following:

- Attend meetings, review materials in advance and actively participate in good faith while respecting time constraints, including the need to hear from a diverse set of perspectives on the advisory committee. Various ways to provide feedback will be provided by the staff and facilitation team (written, verbal, survey, etc.);
- Members will be responsible for reporting out to and engaging their stakeholder groups;
- Support the final decision, or communicate concerns in writing so that these concerns may be shared with the commission;
- A TAC member may not seek to revisit a previous decision made by the RAC;
- Follow through on promises and commitments;
- Share all relevant information that will assist the committee in achieving its goals; and
- Keep their organizations informed of potential decisions and actions.

B. RAC MEMBERS – ROLES AND RESPONSIBILITIES

The members of the Rulemaking Advisory Committee were chosen because of the variety of their interests, experience with land use issues, experience with housing issues, and willingness to work together. While most members of this committee represent or have represented various interests, organizations, or local governments, in order to foster creative problem solving, members are encouraged to voice their individual viewpoints and ideas. The expected role for RAC members is to have **broad, high-level, and policy-oriented discussions** about how best to implement the Legislative direction in HB 2001 (2023). These discussions are best characterized at the “10,000-foot level” and will include values-oriented and conceptual discussions on broad issues.

Each RAC member is expected to attend all meetings, either virtually or in-person, though there may be flexibility to focus attendance on issues relevant to the RAC member. Additionally, RAC members are welcome, but not required, to participate in or join one or more of the Technical Advisory Committees, if interested. Depending on the perspective and experience of the member, DLCD staff may request members to participate on a relevant TAC.

C. RAC REPRESENTATION

The Rulemaking Advisory Committee is comprised of a wide and varying range of stakeholder groups and representatives from across the State of Oregon. DLCD appreciates the contributions of each member of this committee and has made every effort to include stakeholders who will bring unique and valuable prospective, including those that may not have been traditionally represented on such a Committee. DLCD invites the participation of members with perspectives or affiliations listed below. This is not a comprehensive expression of the interests that are critical to this rulemaking advisory committee process. Folks with perspectives and lived-experiences that are not included on this list are encouraged to participate:

- Federally Recognized Tribes
- Environmental and Social Justice Organizations
- Culturally Responsible Organizations
- Disability Advocacy
- Tenant and tenants' rights advocacy
- Subsidized Housing Occupants
- Senior and older adult advocacy
- Fair housing and civil rights advocacy
- Academic research
- Affordable housing advocacy
- Agricultural and resource land advocacy
- Housing development – market-rate
- Housing development – subsidized affordable
- Property Rights Advocacy
- Real Estate
- Land use and planning organizations and advocacy
- Local government
- Planning or Housing Staff - City
- Planning or Housing Staff - County
- Public Works and Special Districts
- Regional government or councils of government
- Transportation and transit planning

D. ATTENDANCE

Members are expected to make a good faith effort to attend all meetings, including the meetings of any Technical Advisory Committee(s) on which they serve. **It is expected that the full RAC will meet approximately once a month until a final recommendation is made to the department, DLCD reserves the right to cancel or call additional meetings of the advisory committees with advance notice.** The proposed schedule anticipates a final RAC meeting in October of 2025. It is important to have the members attend every meeting so that progress can be made. Members shall notify DLCD's rulemaking staff liaison and facilitator if they are unable to make a meeting in advance, and whether a colleague will observe in their place (Note: Non-RAC members will not be able to participate in discussion beyond how the public may participate generally).

E. TECHNICAL ADVISORY COMMITTEES

The full RAC will rely on Technical Advisory Committees to develop and refine detailed recommendations. The members of the Technical Advisory Committees will be selected after the formation of the broader Rulemaking Advisory Committee. Members will be selected based on their specialized experience and expertise related to specific issue areas.

The expected role for TAC members is to have **detailed, in-depth, and technically-oriented discussions** about how best to operationalize the direction and feedback from the RAC, in alignment with the Legislative direction in HB 2001 (2023) and with state statute and administrative rule generally.



These discussions are best characterized as “in the weeds” and will include detailed discussions on specific topics, often with a highly-technical context. For this reason, TAC members are expected to have a substantial degree of expertise, so they can engage meaningfully in discussion.

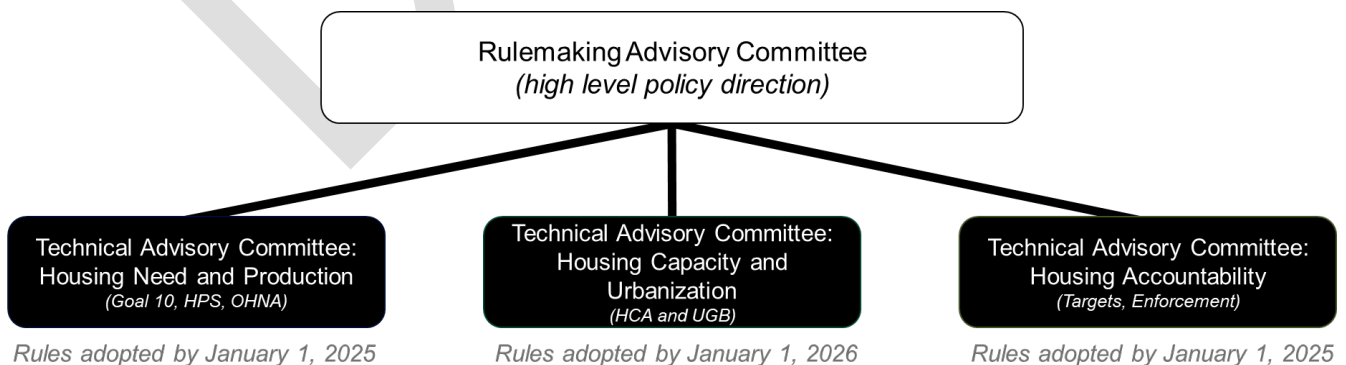
While RAC members may serve as TAC members, TAC members do not also serve as RAC members. Ideally, several RAC members will serve as TAC members in order to liaise between groups. TAC members are welcome to observe RAC meetings to stay engaged and informed throughout the process, but DLCD staff will also convey major takeaways from RAC meetings to inform TAC-level discussions. At times, DLCD staff may request TAC members to present to the RAC on a specific topic, and TAC members are encouraged to provide comments and feedback on draft rules and guidance materials throughout the process. They can do so by submitting comments in writing.

As with the RAC, Technical Advisory Committee meetings will be open to the public and follow Oregon’s Public Meeting Law. However, TAC meetings will have a few key differences from RAC meetings:

- TAC meetings will be held more frequently (roughly biweekly) and for shorter periods of time (~1-1.5 hours) than RAC meetings to enable more frequent and in-depth discussions on technical issues;
- TAC meetings will publish brief agendas and notice in advance of meetings, but DLCD staff will not regularly publish a meeting packet as they would for RAC meetings. DLCD staff will share relevant materials for discussion in advance where needed (e.g. draft rule excerpts, draft guidance materials, etc.);
- TAC meetings will include fewer participants generally, and will be more lightly facilitated in comparison to RAC meetings; and
- TAC meeting discussions will focus strictly on the technical aspects of rulemaking, not on policy-related issues or contention at the RAC level.

There will be three Technical Advisory Committees focused on the following topics, which are discussed in greater detail in the Background (Section I) of this charter:

1. Housing Needs and Production
2. Housing Capacity and Urbanization
3. Housing Accountability



F. LAND CONSERVATION AND DEVELOPMENT COMMISSION (LCDC)

LCDC's **Commissioner [name]** will participate on the Rulemaking Advisory Committee and serve as liaisons to the full commission. Advisory committee members recognize that final decision-making authority regarding the proposed draft rules rests with LCDC.

G. FACILITATOR

The advisory committees will be facilitated by a professional facilitator. The facilitator will ensure that all members' voices are heard and help the group have meaningful and productive conversations. The role of the facilitator is to:

- Support advisory committee members in providing their input and help ensure a balanced process;
- Ensure members adhere to the operating principle;
- Identify/communicate common themes, areas of disagreement, and decision points; and
- Work with DLCD to develop agendas and meeting notes.

H. DEPARTMENT STAFF

The advisory committees will have assistance from department Housing Division staff who will attend all meetings. Other DLCD staff may advise as needed in the Rulemaking Advisory Committee and Technical Advisory Committee meetings. Legal questions will be handled by DLCD staff with LCDC's legal counsel.

I. WITHDRAWAL

Any member may withdraw from an advisory committee at any time. Communication about the reasons for withdrawing, if related to the process, would be appreciated. Good faith provisions (see Section II(A)) apply to those who withdraw.

V. MEETINGS AND ADDITIONAL COMMUNITY AND STAKEHOLDER ENGAGEMENT

DLCD expects a wide range of public and other stakeholder perspectives will be expressed through advisory committee members. DLCD staff will seek additional public comment through listening sessions, focus groups, interviews, and online surveys. Results of all these modes will be summarized with verbatim appendices, posted on DLCD's website, and made available to RAC members for their consideration.

Rulemaking Advisory and Technical Advisory Committee meetings are public meetings under Oregon's open meetings laws. Members of the public who wish to make their opinions known to the advisory committee are encouraged to submit written comments on the work of the advisory committee, which will then be distributed to all members for consideration. There will also be a time allotment on the advisory committee meeting agenda to accept comments in person as time allows. This time will be limited as needed to allow committee work to progress in accordance with statutory and department timelines. Written comment is always accepted.

Meetings will be open to the public and follow Oregon's Public Meeting Law.

A. AGENDAS AND NOTICE

Proposed meeting agendas will be drafted by the department and circulated in advance of meetings. They will be posted on DLCD's website a week before the meeting. Members of the public may sign up for notice at <https://www.oregon.gov/lcd/LAR/Pages/Rulemaking.aspx>.

VI. ADDITIONAL GUIDELINES

A. RIGHTS IN OTHER FORUMS

Participation in the advisory committee process does not limit the rights of any member. Members will make a good faith effort to notify one another in advance, if another action outside the process will be initiated or pursued, which could affect the proposals, recommendations, or agreements being discussed.

B. PRESS/OTHER PUBLIC FORUMS

Advisory committee members agree to refrain from making negative comments about or characterizing the views of the other advisory committee members in contacts with the press. They also agree not to knowingly mischaracterize the positions and views of any other party, nor their own, in public forums. If contacted by the media, please refer the media to Sadie Carney at DLCD. Members shall make clear, when talking to the media, that the views they are expressing are their own, not that of the RAC.

VII. SCHEDULE

The schedule is forthcoming.

VIII. STAFF INFORMATION

Ethan Stuckmayer, Housing Services Division Manager and Point of Contact for Rulemaking Advisory Committee Questions

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Mari Valencia Aguilar, Senior Housing Planner and Point of Contact for Housing Needs and Production Policy Questions

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Karen Guillén-Chapman, Urban Growth Boundary Specialist and Madeline Phillips, Public Facilities Planner, Points of Contact for Housing Capacity and Urbanization Policy Questions

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Sean Edging, Housing Planner and Thea Chroman, Housing Policy Analyst, Points of Contact for Housing Accountability Framework Policy Questions

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Ingrid Caudel, Advisory Committee Coordinator and Point of Contact for RAC/TAC Logistics

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Casaria Taylor, Rules Coordinator and Point of Contact for Rulemaking Procedures

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Please note: email correspondence should be sent to Ingrid.caudel@dlcd.oregon.gov who will then distribute to staff or advisory committee members as needed.

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