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SUBJECT: **Agenda Item 3, May 19-20, 2022, LCDC Meeting**

CLIMATE-FRIENDLY AND EQUITABLE COMMUNITIES RULE ADOPTION

I. AGENDA ITEM SUMMARY

Purpose. The Land Conservation and Development Commission (LCDC or commission) will receive testimony on a proposal for new and amended rules resulting from the Climate-Friendly and Equitable Communities rulemaking. After the hearing, the commission will consider adopting the rules.

Objective. The Department of Land Conservation and Development (DLCD or department) recommends that the commission adopt new rules and rule amendments within three divisions of Oregon Administrative Rules (OAR):

- Division 8 – Interpretation of Goal 10 Housing
- Division 12 – Transportation Planning
- Division 44 – Metropolitan Greenhouse Gas Reduction Targets

These rules would apply to cities and counties within Oregon metropolitan areas and Metro. The rules will significantly strengthen the state's rules about transportation and housing planning. The rules will require communities to change their local transportation and land use plans to do more to ensure Oregonians have more safe and comfortable ways to get around, and don't have to drive long distances just to meet their daily needs. According to the commission's charge, the rules also aim to improve equity, and help community transportation, housing, and planning serve all Oregonians, particularly those traditionally underserved and discriminated against.

For further information about this report, please contact project co-manager Bill Holmstrom, Land Use and Transportation Planning Coordinator, at (971) 375-5975 or bill.holmstrom@dlcd.oregon.gov.

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II. BACKGROUND

Background. The commission initiated the [Climate-Friendly and Equitable Communities Rulemaking](#) in [September 2020](#) in response to Governor Brown’s [Executive Order 20-04](#) to reduce greenhouse gas emissions from the land use and transportation sector. The commission adopted an extensive [rulemaking charge](#) to guide the rulemaking process, included as Attachment A. A diverse Rulemaking Advisory Committee (RAC) has met twelve times to discuss approaches to and elements of the draft rules.

A. OREGON'S CLIMATE EFFORTS

This rulemaking is part of Oregon's longstanding effort to reduce pollution from the transportation system, especially greenhouse gases that are causing a change in climate and associated weather-related disruptions including drought, wildfires, and warming temperatures with greater variation overall.

To meet the pollution reduction goals adopted by the legislature, the state must help cities and counties plan for a future that reduces driving while improving access to jobs, housing, and services. Extensive research over the last fifty years of research and planning show that we can do this by:

- Increasing development in climate-friendly locations, including city centers and town centers and transit corridors, where services are located, and the need to drive is reduced;
- Improving facilities for walking, bicycling, carpooling, and transit so people can reach destinations without depending on single occupancy vehicles;
- Managing parking to avoid over-building parking, which subsidizes driving and uses land needed for housing and other services, as well as increasing housing costs and pushing land uses apart, making it harder to walk to destinations; and
- Refocusing transportation planning away from motor vehicle congestion towards a system that provides a wider range of equitable and climate-friendly transportation options.

DLCD's role in helping to achieve the state's climate pollution reduction goals is through rule amendments and providing financial and technical assistance programs for implementing communities. The agency supports communities as they develop and implement land use, housing, and transportation system plans at the local and regional levels.

By applying a program-specific [equity lens](#) of recognizing historically disproportionate impacts and outcomes produced by the land use and transportation system, department staff developed rule changes intended to reduce disparities in benefits and burdens at the local level and increase more equitable outcomes. As defined by Executive Order 20-04, impacted communities include Native American communities, communities of color, rural communities, coastal communities, households of lower-income, people with disabilities, and other communities traditionally underrepresented in, and underserved by, public processes.

1. State Climate Goals

In 2007, the Oregon legislature adopted a statewide goal to reduce greenhouse gas emissions from all sectors to 75 percent below 1990 levels by 2050 (ORS 468A.205). Since that time, reports have repeatedly shown that Oregon still has a long way to go to meet these goals, particularly in the transportation sector.

The [2018 Report to the Legislature](#) from the Oregon Global Warming Commission notes that “more than half of the recent increased level of emissions is due to gasoline and diesel use... transportation emissions have grown as a share of Oregon’s statewide GHG emissions total compared to emissions from electricity use” (page 36). The report goes on to say that “Oregon and the nation are off track in curbing vehicle greenhouse gas emissions and straying further away from the necessary pace every day” (page 69).

The report concludes that “Oregon and other states can enable progress on transportation emissions reduction with policies that incentivize low-carbon choices: electric vehicles, bicycle and pedestrian travel, and better urban design, to name a few” (page 69).

Oregon’s [Statewide Transportation Strategy](#) (STS), developed in 2013 and adopted by the Oregon Transportation Commission in 2018, identifies a comprehensive set of actions, that if fully implemented, will reduce greenhouse gas emissions from transportation 60% below 1990 levels by 2050. The [2018 STS Monitoring Report](#) found that “with current efforts and our newer plans, Oregon is on track to reduce greenhouse gas emissions by 15-20 percent below 1990 levels by 2050, which falls far short of the STS vision” (page 26). The monitoring report found that increased population, more vehicle travel, and less fuel-efficient vehicles are slowing overall progress towards the STS Vision. The Climate-Friendly and Equitable Communities rulemaking will help to close the gap towards meeting the state’s climate goals.

2. Multi-Agency Efforts to Reduce Climate Pollution

In 2019, the Department of Environmental Quality (DEQ), the Oregon Department of Energy (ODOE), the Oregon Department of Transportation (ODOT), and DLCD engaged Oregon Solutions to help align the agencies’ work efforts to further the state’s climate initiatives, key among them implementation of the STS. The Oregon Solutions report recommended creating an institutional framework to guide STS implementation.

In response to Governor Brown’s Executive Order 20-04 directing state agencies to take actions to reduce and regulate greenhouse gas emissions, DLCD, DEQ, ODOE, and ODOT partnered to identify collaborative actions to implement the STS through the [Every Mile Counts](#) multi-agency work plan. *Every Mile Counts* actions are short-term (through 2022) and multi-agency actions to implement the STS. The agencies committed to update the work plan every two years.

The *Every Mile Counts* 2020-2022 work plan includes a set of ten actions. DLCD is the lead agency for three actions:

- Climate-Friendly and Equitable Communities
- Scenario and Climate Pollution Reduction Planning
- Reforming Parking Management

The Climate-Friendly and Equitable Communities rulemaking is a key part of implementing the requirements of section 9 of Executive Order 20-04, and the *Every Mile Counts* work plan. The executive order also directed ODOT and DLCD to provide financial and technical assistance to support local governments in amending their plans. More information on that support is discussed in Section V of this staff report.

III. EXISTING OREGON ADMINISTRATIVE RULES

Since 1991, the [Transportation Planning Rules](#) (TPR) (OAR chapter 660, division 12) have set transportation planning requirements for all Oregon cities and counties. These rules are designed to ensure coordinated land use and transportation planning and that plans include all modes of transportation. In metropolitan areas, the rules require that jurisdictions plan to increase transportation choices and reduce reliance on the automobile.

In 2011, the commission adopted the [Metropolitan Greenhouse Gas Reduction Targets](#) (OAR chapter 660, division 44), as was legislatively directed by [HB2001](#) (2009) and [SB1059](#) (2010). The rules set climate pollution reduction targets for metropolitan areas. The legislation and the rules specifically required Metro to develop, select, adopt, and implement a regional scenario plan for the Portland metropolitan area to meet the climate pollution reduction target. The legislation and rules did not require cities and counties in other metropolitan areas to adopt plans to meet regional targets.

These rules, and Oregon’s overall comprehensive land use planning program have resulted in better outcomes than if they had not been in place. However, the existing rules are not sufficient to meet the state’s goals for reducing climate pollution.

The Transportation Planning Rules do not require local jurisdictions to meet any climate goals, and the mechanisms requiring additional planning in metropolitan areas are outdated and ineffective. The voluntary nature of the climate pollution reduction targets outside of the Portland metropolitan area has not resulted in plans or actions that make a significant reduction in climate pollution. In many places, existing plans would increase climate pollution.

B. RULEMAKING PROCESS

The following is a summary of the rulemaking processes to date.

1. Scoping

From March to September of 2020, DLCD staff and the commission worked to define the scope of study for the rulemaking process. Staff conducted interviews and heard from nearly one hundred local government representatives through a survey to help contextualize and frame the rulemaking.

Based on [interviews conducted](#) during the scoping phase, commissioners formally initiated rulemaking in September 2020. The [commission's charge](#) to the department has guided the development of the draft rules, and is included as Attachment A. At the same meeting, commissioners provided direction on the interests that should be represented at the rulemaking table including participants experienced in producing equitable outcomes.

2. Advisory Committee

Staff received guidance on the development of the draft rules through the rulemaking advisory committee (RAC). Advisory [committee members](#) were selected to provide a full representation across a range of interests that are likely to be affected by the rules, and to reflect Oregon's geographic, racial, gender, housing, ability, and income diversity. The department received more than 100 applications to serve on the advisory committee and selected 40 people representing each metropolitan area for the committee, as well as alternates.

Community Engagement

In addition to receiving guidance from LCDC, local government partners and planning practitioners, the department has emphasized community engagement throughout rulemaking. The goal of the community engagement strategy has been to include community members and representatives from underserved populations in decision making and to engage directly with affected local governments and community members. To support this, staff identified the following engagement objectives:

- Bringing community members to the table, with a focus on underserved communities;
- Building capacity in community benefit organizations through financial and staff support;
- Working with the affected communities through community conversations;
- Use of demographic data to inform our work; and
- Placing an emphasis on qualitative information, with a focus on lived experience.

Early in the process, staff recognized that there was a gap between relating the complexities of planning regulations and administrative rule language to the daily lives of community members. To bridge the gap between community members and proposals for administrative rule language, staff focused early conversations on desired outcomes and concepts. A key tool used by staff to bridge this gap was the [Equitable Outcomes Statement](#). In partnership with RAC members, staff co-created the document to serve as a guidepost for staff to develop proposed rules to realize the desired outcomes.

At the conclusion of the advisory committee meetings, staff presented advisory committee members with a “crosswalk” of how the proposed rule amendments meet the desired outcomes from the Equitable Outcomes Statement.

Rulemaking Advisory Committee Meetings

The advisory committee has met twelve times since rulemaking was initiated in September 2020. Staff is grateful for advisory committee members’ extensive contributions. Due to the COVID-19 pandemic, each of these meetings have been held remotely. The table below includes a summary of topics discussed and links for more information about each meeting.

Meeting	Topics	Links
RAC 1 November 23, 2020	<ul style="list-style-type: none"> • Introductions • Roundtable on equitable outcomes • Review existing climate efforts 	Packet Video
RAC 2 December 16, 2020	<ul style="list-style-type: none"> • Review draft equitable outcomes statement • Overview of regional scenario planning 	Packet Video
RAC 3 January 25, 2021	<ul style="list-style-type: none"> • Present equitable outcomes statement • Discuss interim regional planning requirements • Discuss local performance measures • Initial review of draft scenario planning rules 	Packet Video
RAC 4 February 22, 2021	<ul style="list-style-type: none"> • Additional background and context • Equitable outcomes statement • Performance measures and equity framework • Initial discussion on monitoring and reporting 	Packet Video
RAC 5 March 29, 2021	<ul style="list-style-type: none"> • Review of Statewide Transportation Strategy • What we heard: monitoring and reporting • Division 44 draft rules review • Review of equity mapping 	Packet Video
RAC 6 July 12, 2021	<ul style="list-style-type: none"> • Discuss concepts for planning regulations concepts • Review performance measures work 	Packet Video
RAC 7 August 18, 2021	<ul style="list-style-type: none"> • Review draft planning regulations rules, including climate friendly areas, parking reform, and electric vehicle charging 	Packet Video
RAC 8 September 15, 2021	<ul style="list-style-type: none"> • Equity and the rulemaking effort • Review draft planning regulations rules, including enhanced planning for pedestrian, bicycle, and transit; and prioritization of projects 	Packet Part 1 Part 2 Video
RAC 9 November 5, 2021	<ul style="list-style-type: none"> • Review full draft of updated rules, including performance standards, streets and highways, climate- friendly areas, and parking reform 	Packet Part 1 Part 2 Video
RAC 10 December 17, 2021	<ul style="list-style-type: none"> • Continue review of full draft of updated rules • Review rules with equitable outcomes statement 	Packet Part 1 Part 2 Video
RAC 11 January 20, 2022	<ul style="list-style-type: none"> • Continue review of full draft of updated rules • Review rulemaking impact statements 	Packet Part 1 Part 2 Video

Meeting	Topics	Links
RAC 12 April 11, 2022	<ul style="list-style-type: none">• Discuss revisions to rules for timing and work programs, bicycle network standards, affordable housing and anti-displacement in climate friendly areas, and block length standards.	Packet Video

3. Additional Engagement

To supplement the guidance received through the rules advisory committee meetings, staff held many additional [meetings and participation opportunities](#). The main engagement efforts include the following:

- Thirty-four (34) [interviews and survey](#) with stakeholders to scope the rulemaking
- Two (2) [equity workshops](#) and a [survey](#) with the Every Mile Counts agencies
- Nine (9) regional “[community conversations](#)” open to the public at two points during the rulemaking; associated survey response tool.
- Six (6) regional practitioner meetings designed for local planning staff
- Eight (8) topic-specific workgroups to discuss and refine specifics in the draft rules
- Multiple drop-in sessions open to stakeholders to answer questions and discuss elements of the draft rules

Additionally, staff has met, and continues to meet with local government staffs, advisory committees, planning commissions and governing bodies, and other interested groups on request. To date, staff have held more than 140 engagement meetings, with additional meetings planned.

IV. SUMMARY OF PROPOSED RULES

A summary of the proposed rules is included in Attachment B. Updated drafts of the rules for the commission’s review also are included as attachments to this staff report as follows:

- Draft rules for Division 8 (Housing): Attachment C
- Draft rules for Division 12 (Transportation Planning): Attachment D
- Draft rules for Division 44 (Regional Scenario Planning): Attachment E

The table below summarizes how the proposed rules differ from existing adopted rules.

Topic	Current Rules	Proposed Rules
General	<ul style="list-style-type: none"> • Rules for metropolitan areas interspersed throughout division 12 • Rules apply to Metropolitan Planning Organizations (MPOs), metropolitan areas, and local governments • General requirement to identify the needs of transportation disadvantaged 	<ul style="list-style-type: none"> • Consolidated rules for metropolitan areas in 660-012-0100 to 0920 • Rules apply to cities, counties, and Metro • Specific requirements to address equity in planning
Transportation System Planning	<ul style="list-style-type: none"> • How to prepare a transportation system plan • General requirement for plans to include multi-modal elements • Requirement for plans to include policies to review major roadway improvements to reduce the reliance on the automobile 	<ul style="list-style-type: none"> • Specific requirements for each transportation mode and transportation options programs • Specific requirements on how to plan for a complete transportation system • Specific process for review of major roadway projects • Cities and counties must reduce Vehicle Miles Traveled (VMT) when updating a transportation systems plan
Regional Planning	<ul style="list-style-type: none"> • Metro required to adopt a regional plan for the Portland area to meet greenhouse gas targets • MPOs directed to prepare a state-required regional transportation system plan • Plans must have standards to demonstrate progress towards increasing transportation choice and reduce reliance on the automobile • A metropolitan area may meet requirements to demonstrate progress by reducing VMT per capita by 5% over the planning horizon • If a plan increases VMT per capita more than 5%, then the metropolitan area must adopt a separate Integrated Land Use and Transportation Plan 	<ul style="list-style-type: none"> • Portland Metro, Eugene-Springfield, and Salem-Keizer must adopt regional plans to meet greenhouse gas reduction targets • Cities and counties in other metropolitan areas must set target for performance measures and then report on progress reducing pollution • Plans must include performance measures for climate and equity • Cities and counties must report on progress towards performance targets and implement corrective actions

Topic	Current Rules	Proposed Rules
Land Use	<ul style="list-style-type: none"> • Allow transit-oriented development along transit routes • Directs integrated land use and transportation planning • Direction for building orientation and street connectivity 	<ul style="list-style-type: none"> • Require climate friendly area land use regulations • Flexible approach to transportation impact review • Identify and plan for transit priority corridors
Development Review	<ul style="list-style-type: none"> • Review proposed developments with performance standards that focus on preventing congestion 	<ul style="list-style-type: none"> • Review development with a wider range of performance standards
Parking	<ul style="list-style-type: none"> • Cities must set parking maximums in appropriate areas • Cities must require employers to provide preferential parking spaces for carpools • Cities must either adopt a plan to reduce total parking per capita, or reduce parking mandates from 1990s levels 	<ul style="list-style-type: none"> • Requirements to update parking codes, remove mandates near frequent transit, and reduce mandates in climate friendly areas • Cities and counties must adopt one of three parking reform approaches

V. KEY ISSUES

A. CHANGES SINCE MARCH DRAFT

Staff provided the commission with draft rules at the commission’s March 31, 2022 meeting. Since then, staff have made revisions due to feedback received from:

- The commission at their March 31 meeting.
- The advisory committee at their April 11th meeting;
- Technical reviewers at ODOT and local governments; and
- Other stakeholders, including at two listening sessions held in early April.

A summary of changes made in each rule is included with a summary of the rules in Attachment B. A summary of written testimony received by the commission at the March 31 hearing is included as Attachment F. Staff is finalizing a response to those comments and should have that posted as a part of the commission’s supplemental packet on May 13.

These changes have generally been made for clarity and to balance the objectives of the rulemaking with the feasibility of implementation. Staff also have made revisions in response to legal review by the Department of Justice.

At their March 31 hearing, the commission directed staff to make changes to some key areas for timing and work programs, inclusion of bicycle network standards, requirements for affordable housing and anti-displacement, and large site block length

standards in climate friendly areas. In response to testimony and commission questions, staff also promised to provide more clarity on what level of equity analysis would be required for specific actions.

B. TIMING

Staff have continued to refine the requirements for when elements of the updated rules need to be implemented. Staff recognize the need to balance urgent action with the realities of implementing new requirements. As staff have had a better chance to understand the needs of communities and the resources available, it has become clear that providing additional flexibility over the next few years will be necessary for both the state and local governments to successfully execute the updated rules.

Additional flexibility has been provided for local governments to make updates to their local transportation system plans in the next few years without having to make a wholesale update to meet all updated requirements. This will help local governments make smaller changes in the interim period that move in the right direction without undue cost or delay.

Local governments will continue to have an option to submit alternative dates for implementation. The alternative dates provision was previously called a “work program” in the draft rules. The updated draft simplifies the requirements for submitting alternative dates. Alternative dates will provide an opportunity for DLCD and ODOT to work with local governments in the later part of this year to better determine a schedule for each jurisdiction. Staff expects most, if not all jurisdictions will take advantage of the alternative dates option.

Summary of Changes Made to Rules:

At the March 31 hearing, the commission asked for timing options to consider. Staff is providing two sets of timing options in the draft rules:

- A “**more urgent**” option which provides for a quicker reasonable set of implementation dates. This is the staff recommended option. This is draft rule OAR 660-012-0012A in Attachment D, page 36.
- A “**more time**” option which provides for more time in many categories of implementation dates. This is draft rule OAR 660-012-0012B in Attachment D, page 39.

Another item the commission asked staff to consider was potential timing for requiring a major update of local transportation system plans. The “more urgent” option now includes a deadline of December 31, 2029 for cities over 5,000 outside of the Portland Metropolitan Area to update their transportation system plan.

The table below describes the range of elements in the draft rules that have timing attached to them. The table includes the timing that was in the March draft rules, as well as the timing for each of the options. The shaded elements in the table below are those that may be adjusted through the alternative dates process. The reference to the draft rules is provided for each of the options.

Item		March Draft Rules	More urgent option	More time option
1	May use the existing rules to complete TSP update until date	December 31, 2022	December 31, 2022 0012A(2)(a)	June 30, 2023 0012B(2)(a)
2	Incremental TSP updates over transition period ending date	June 30, 2027	June 30, 2027 0012A(2)(b)	June 30, 2029 0012B(2)(b)
3	Alternative dates, some work complete no later than date	December 31, 2023	December 31, 2023 0012A(3)(b)	No timeline.
4	Alternative dates, all elements complete by date	June 30, 2027	June 30, 2027 0012A(3)(b)	No timeline.
5	Proposed alternative dates submitted by date	December 1, 2022	December 1, 2022 0012A(3)(d)	February 1, 2023 0012B(3)(d)
6	Transportation system plan update	No specific timeline. Must be addressed in work program	December 31, 2029 for non-Portland Metro cities over 5k 0012A(4)(a)	No specific timeline. Must be addressed in alternative dates
7	Adopt multiple transportation performance standards (0215)	Major or minor TSP update	June 30, 2025 0012A(4)(b)	Major TSP update 0012B(4)(a)
8	Adopt CFA land use standards (0315)	June 30, 2024	December 31, 2024 0012A(4)(c)	December 30, 2025 0012B(4)(b)

Item		March Draft Rules	More urgent option	More time option
9	Metro amend UGMFP to require adoption of centers	With urban growth analysis, no later than December 31, 2024	With urban growth analysis, no later than December 31, 2024 0012A(4)(d)	0012B(4)(c)
10	Metro city/county deadline for center adoption	December 31, 2025	December 31, 2025 0012A(4)(d)	June 30, 2026 0012B(4)(c)
11	Meet general land use requirements (0330)	Major or minor TSP update	Major TSP update 0012A(4)(e)	Major TSP update 0012B(4)(d)
12	Parking requirements (0400 to 0450)	March 31, 2023	June 30, 2023 0012A(4)(f)	December 31, 2023 0012B(4)(e)
13	Adopt parking maximums if required (0415)	When updating TSP	June 30, 2023 0012A(4)(f)	Major TSP update 0012B(4)(e)(A)
14	If adopt an approach in 0445, policies must take effect	June 30, 2023	June 30, 2023 0012A(4)(f)(B)	December 31, 2023 0012B(4)(e)(C)
15	If adopt approach in 0435, must do so by date	Concurrently with implementing CFA under 0320	Concurrently with implementing CFA under 0320 0012A(4)(f)(C)	0012B(4)(e)(D)
16	Cities choosing to report on-street parking must demonstrate 5% priced (0450(1)(b))	September 30, 2023	September 30, 2023 0012A(4)(g)(A)	June 30, 2024 0012B(4)(f)(A)
17	Cities choosing to report on-street parking must demonstrate 10% priced (0450(1)(b))	September 30, 2025	September 30, 2025 0012A(4)(g)(B)	June 30, 2026 0012B(4)(f)(B)
18	Transportation Modeling and Analysis (0210)	N/A	June 30, 2024 0012A(5)(a)	June 30, 2025 0012B(5)(a)

Item		March Draft Rules	More urgent option	More time option
19	Submit study of CFAs (0310(2))	June 30, 2023	June 30, 2023 0012A(5)(b)	June 30, 2023 0012B(5)(b)
20	Designate CFAs when city is big enough (0310(3)(a) and (b))	June 30, 2023	June 30, 2023 0012A(5)(c)	December 31, 2023 0012B(5)(c)
21	Implement EV charging requirements (0410)	March 31, 2023	Align with BCD rule adoption 0012A(5)(d) 0012B(5)(d)	
22	Implement parking requirements (0430 & 0440) when reviewing development after	December 31, 2022	December 31, 2022 0012A(5)(e)	December 31, 2023 0012B(5)(e)
23	Cities with bond election prior to date may use as factor in prioritizing projects	January 1, 2022	January 1, 2022 0012A(6)	January 1, 2023 0012B(6)
24	First report due (0900)	Due May 31, 2023 for 2022 reporting year	Due May 31, 2024 for 2023 reporting year 0012A(7) 0012B(7)(a)	
25	First major report due (0900)	Per rule, except if normally due 2023 for 2022 reporting year may postpone major to 2024 for 2023 reporting year. Minor in 2023.	Every 4 or 5 years per rule – earliest 2024 0012A(7)	Every 4 or 5 years per rule, except if normally due 2024 for 2023 reporting year, may postpone major report to 2025 for 2024 reporting year. Minor report in 2024. 0012B(7)(b)

C. BICYCLE NETWORK STANDARDS

The draft rules require local governments to plan for a “connected network of bicycle facilities that provides a safe, low stress, direct, and comfortable experience for people of all ages and abilities.” Staff and the commission received comments in support of the

goals of the rule. However, these comments also requested stronger language to ensure local governments plan for a high-quality bicycle network. Many comments specifically asked for the rules to include requirements for local governments to use the *Urban Bikeway Design Guide* published by the National Association of City Transportation Officials (NACTO).

Staff have updated the March draft rules to specifically define “all ages and abilities” in the context of the bicycle network, consistent with NACTO recommendations. This change supports equitable outcomes and will provide clearer direction to local governments about the expected quality of the bike network and who it is expected to serve.

At the March 31 hearing, staff provided options to the commission to either proceed with the draft rules without specifically referring to the *Urban Bikeway Design Guide*, or to add the reference with the understanding that the document may soon be out of date. The commission directed staff to add the reference into the rules which is reflected in the draft rules.

Summary of Changes Made to Rules:

Staff have updated the proposed rule to direct local governments to adopt standards for bicycle system planning and facilities based on the *Urban Bikeway Design Guide* and *Designing for All Ages & Abilities* by NACTO, and the *Blueprint for Urban Design* developed by ODOT. The updated requirement is in OAR 660-012-0610(5), on page 88 of Attachment D.

D. AFFORDABLE HOUSING AND ANTI-DISPLACEMENT IN CLIMATE FRIENDLY AREAS

Staff received direction from the commission to require local governments to adopt housing production strategies that will promote the development of affordable housing and mitigate displacement of underserved populations in climate friendly areas, concurrent with the designation of these areas. The department maintains a list of housing production strategies to be used in [Housing Production Strategy Reports](#). The list is organized in categories of potential strategies that may be used by cities, including:

- Zoning and code changes;
- Reduce regulatory impediments;
- Financial incentives;
- Financial resources;
- Tax exemption and abatement;
- Land, acquisition, lease, and partnerships; and
- Custom options.

The [Housing Production Strategies List](#) identifies affordability targets for publicly-subsidized (<30% Area Median Income (AMI)), affordable (30-80% AMI), workforce (80-120% AMI), and market rate (>120% AMI) housing. This affordability data is maintained by the US Department of Housing and Urban Development (HUD) for every metropolitan region in the country.

Additionally, the Housing Production Strategies list was revised to incorporate DLCD's [Anti-Displacement and Gentrification Toolkit](#). The toolkit helps cities to categorize neighborhoods based on where gentrification and displacement pressures have already occurred or may occur in the future. Though not mandatory to use, staff designed the toolkit with experts from Portland State University led by Dr. Lisa Bates to help jurisdictions better measure displacement and gentrification in their communities, and direct Housing Production Strategies towards mitigating these pressures as more housing is produced. Categories are included to help cities understand the impact of each strategy when it comes to anti-displacement work.

At the April 11 meeting of the Rulemaking Advisory Committee, staff asked advisory committee members to consider and discuss the direction from the commission. Staff prepared a proposed approach to require local governments to adopt affordable housing and anti-displacement measures. While some RAC members expressed concerns with the affordability of housing and the potential for displacement in climate friendly areas, there was general support for the proposed approach, which is incorporated into the proposed rules in OAR 660-012-0315(6), on page 64 of Attachment D.

Summary of Changes Made to Rules:

Staff have updated the proposed rules so that:

1. Local governments are required to adopt affordable housing and anti-displacement strategies concurrent with zoning of climate friendly areas;
2. There is no required number of strategies that local governments must adopt, but local governments should demonstrate a “good faith effort” to address affordable housing and potential displacement in climate friendly areas;
3. The findings adopted to support the designation of climate friendly areas shall identify all ongoing and recently-adopted strategies the local government shall use to promote the development of affordable housing in climate friendly areas. For cities with a population over 10,000 these strategies will be incorporated into future housing production strategy reports; and
4. The findings shall also identify all ongoing and recently-adopted strategies the local government shall utilize to prevent the displacement of underserved populations in climate friendly areas. These findings shall include description of how the strategies will be implemented based on consideration of identified neighborhood typologies and the most effective measures to prevent

displacement based on typology. For cities with a population over 10,000, these strategies will be incorporated into future housing production strategy reports.

E. LARGE SITE BLOCK LENGTH STANDARDS

The March draft rules established a maximum block length standard within climate friendly areas of 500 feet, requiring a public pedestrian cut-through/easement if the block length is greater than 350 feet in conjunction with redevelopment of two acres or more. Staff developed this standard in the context of redevelopment in existing developed climate friendly areas, balancing the need for better pedestrian connectivity with the inhibiting effect a requirement for street dedication and improvement would have on larger redevelopment within developed climate friendly areas.

Noting that climate friendly areas may be designated in previously undeveloped areas, or may redevelop a larger portion of a developed climate friendly area, the commission directed staff to develop a size threshold for new development and redevelopment in a climate friendly area that would establish block lengths of 350 feet or less.

At the April 11 meeting of the Rulemaking Advisory Committee, staff asked members to consider and discuss the direction from the commission. Staff proposed a new large-site block length standard for discussion. To determine the appropriate large site threshold, staff calculated the square footage of a square block with sides of 350 feet, which is approximately 2.8 acres. Given this dimension, a development or redevelopment site of twice this size (approximately 5.5 acres or greater) would warrant application of the 350-foot minimum block length standard.

Comments from RAC members generally supported the proposed approach, which is incorporated into the proposed rules in OAR 660-012-0320(5), on page 66 of Attachment D.

Summary of Changes Made to Rules:

Staff have updated the proposed rules so that:

1. The maximum block length of 500 feet or less, with a pedestrian thru-block connection if greater than 350 feet, is required for a development site less than 5.5 acres;
2. For a development site of 5.5 acres or more, a maximum block length of 350 feet or less is required; and
3. Exceptions to street and accessway requirements may be granted in some cases.

F. EQUITY ANALYSIS

Staff received direction from the commission to clarify the level of equity analysis required for certain actions. Staff have reviewed the equity provisions in the draft rules and have clarified the level of community engagement requirements.

Summary of Changes Made to Rules:

Staff have updated the proposed rules to clarify:

1. Minor actions and updates would require an engagement-focused equity analysis, while a major Transportation System Plan update would require a major equity analysis;
2. The major equity analysis maintains the requirement for a community to assess, document, acknowledge and address past and current practices in land use, housing and transportation have harmed underserved populations, particularly related to climate pollution and racism. It also requires the development or refinement of key performance measures on those issues and an engagement-focused equity analysis;
3. The engagement-focused equity analysis requires engaging underserved populations and analyzing qualitative and quantitative information on the relative burdens and benefits of proposed changes. It requires adoption of strategies to create greater equity, and a report back to those engaged in the decision-making; and
4. Designation of climate friendly areas and scenario planning have their own equity and engagement requirements on top of the engagement-focused equity analysis.

G. MINIMUM RESIDENTIAL DENSITIES IN CLIMATE FRIENDLY AREAS

Staff and the commission have heard concerns regarding potential impacts from the minimum residential densities included within the prescriptive standards for climate friendly areas in OAR 660-012-0320(8). Commenters have expressed concerns that the required densities will limit the variety of housing types that may be provided in climate friendly areas and will increase housing costs within these areas. Commenters have also expressed concerns that there will be limited opportunities for homeownership in climate friendly areas, and that climate friendly area zoning will reduce opportunities for housing elsewhere in metropolitan communities. Local governments have expressed concerns that requiring minimum residential densities will inhibit desired development in climate friendly areas by “setting the bar too high” for desired development.

Staff believes minimum residential densities are important in climate friendly areas in order to support a mix and intensity of uses in these areas that will make it possible for residents, employees, and visitors to meet more daily needs without reliance on single occupant vehicle trips. The widespread adoption of single-use zoning and low-density residential neighborhoods by Oregon cities over the span of the twentieth century has

resulted in a built environment in which most of Oregon’s households are highly dependent upon an automobile to meet their daily needs.

Additionally, low density residential development is increasingly unaffordable to many Oregon households. Greater housing variety is needed to serve the diverse needs and incomes of Oregon households. The Statewide Transportation Strategy (STS) shows that providing opportunities for more walkable, mixed-use areas in Oregon’s cities can have a significant impact in reducing climate pollution, and that if 30% of urban households are in walkable mixed-use areas by 2035, we will have made very significant progress in meeting our climate pollution reduction goals.

Regarding the proposed minimum density requirements, staff offers the following considerations:

- Without minimum density requirements, there is the potential that near-term development at lower densities would preclude for decades the level of development we need to see to meet our climate pollution reduction goals. Conversations with local government staff applying exceptions to minimum density standards confirm that this has occurred in some jurisdictions.
- Minimum densities will support a variety of public investments in land use and transportation in climate friendly areas, including strong support for high quality transit services.
- Climate friendly area requirements expand housing opportunities, adding additional capacity for residential development outside existing residential zones. Climate friendly area requirements do not reduce the amount of land currently available for residential development.
- Climate friendly areas will only impact the residential land supply over time to the extent that they are successful in attracting housing. If little housing is developed in climate friendly areas, then local governments will continue to plan to meet their residential needs elsewhere.
- Revisions to earlier drafts allow local governments to designate less intensive climate friendly areas outside a “primary climate friendly area” to better address local residential market feasibility.
- Local governments are not required to apply minimum density requirements if they follow the outcome-oriented standards path provided in OAR 660-012-0320(9).
- Local governments following the prescriptive standards path in OAR 660-012-0320(8) would not apply minimum residential densities to mixed-use development. With the recent rule revision to allow local governments to require ground floor commercial and office uses in residential buildings (OAR 660-012-0320(2)(a)), local governments wishing to establish this requirement would avoid applying minimum density requirements at all.

- Another recent rule revision exempts local governments from applying minimum density requirements for interior renovations in existing buildings that add some dwelling units, but not enough to comply with minimum densities.
- As the analysis below shows, most housing types are possible in compliance with minimum densities. Additionally, with the recent passage of SB 458 (2021), any city subject to the requirements of HB 2001 (2019) must allow land divisions to accommodate individual units on individual lots for all of the housing types listed below. This provides a much greater variety of homeownership options for housing that is likely to be more affordable than large-lot single family detached homes.

Single family detached: Maximum lot sizes in compliance with minimum densities for single family detached residential units:

Minimum Density	15 units/acre	20 units/acre	25 units/acre
Maximum Lot Size	2,904 sq. ft.	2,178 sq. ft.	1,742 sq. ft.

Although these are small lot sizes in relation to traditional single-family development, compact single-family homes could be developed on lots of this size, especially if part of a cottage-cluster style development.

Single family attached: Middle housing standards in OAR 660-046-0220(3)(a) establish an average minimum lot size no greater than 1,500 square feet, per unit. This lot size results in a net density of 29 units per acre, which would meet the minimum density requirements for all climate friendly areas.

Duplex: Maximum lots sizes in compliance with minimum densities for duplexes:

Minimum Density	15 units/acre	20 units/acre	25 units/acre
Maximum Lot Size	5,808 sq. ft.	4,356 sq. ft.	3,484 sq. ft.

Triplex: If a triplex is constructed on a 5,000 square foot lot, as is contemplated in middle housing rules (660-046-0220), the net density is 26 units per acre, which would meet the minimum density requirements in all climate friendly areas.

Quadplex: If a quadplex is constructed on a 7,000 square foot lot, as is contemplated in middle housing rules (660-046-0220), the resultant net density is 25 units per acre, which would meet the minimum density requirements in all climate friendly areas.

Summary of Changes Made to Rules:

Staff have updated the proposed rules so that:

1. Climate friendly area rules allow local governments to require ground floor commercial and office uses within multifamily residential buildings (OAR 660-012-0320(2)(a)); and
2. Local governments are not required to apply minimum densities to renovations within existing buildings that add residential units but remain below minimum density requirements (OAR 660-012-0320(8)).

VI. RULE IMPLEMENTATION

Executive Order 20-04 contains specific direction for DLCD and ODOT to adopt rules that direct local plans to meet the greenhouse gas reduction goals, and to identify and implement financial and technical assistance to local governments to amend their plans. While staff have been developing and revising the draft rules with the advisory committee, DLCD and ODOT agency staff have been concurrently developing an implementation strategy for delivering the tools and resources that local governments will need to successfully implement the rules over the next few years and into the future. To support local implementation of the rules, ODOT and DLCD developed the draft joint agency plan to implement the program and support local jurisdictions in meeting the new requirements in Attachment G.

In summary:

- ODOT has secured \$3.5 million to support implementation of the proposed requirements in Division 44;
- The Oregon Transportation Commission allocated \$15 million of federal funds toward planning work to implement the updated rules, including support for updated transportation system plans; and
- DLCD received \$768,000 from the legislature to be used for direct local assistance to implement key pieces of the rulemaking for the 2021-2023 biennium. DLCD staff is currently working with 15 local governments in the seven metropolitan areas outside of the Portland metro area to prepare contracts and guidance materials to implement phase I of the climate friendly area designation.

In addition to this funding, more will be needed. The department is preparing a budget request for the 2023-2025 biennium to support local governments with the resources they will need to successfully implement the rules. The department is working with the Governor's Racial Justice Council to engage and better understand the needs of community partners and local governments to inform the development's budget.

The department has also been convening a group of ten other state agencies with the goal to identify shared work to support local government efforts to achieve more

equitable outcomes while reducing climate pollution. The aim is to connect plans and performance measures with state and federal investments that will support local governments in realizing the desired outcomes.

VII. ASSESSMENT OF ADMINISTRATIVE RULE REQUIREMENTS

Oregon Revised Statute 197.040 directs the Land Conservation and Development Commission to design its administrative requirements to:

- (A) Allow for the diverse administrative and planning capabilities of local governments;
- (B) Consider the variation in conditions and needs in different regions of the state and encourage regional approaches to resolving land use problems;
- (C) Assess what economic and property interests will be, or are likely to be, affected by the proposed rule;
- (D) Assess the likely degree of economic impact on identified property and economic interests; and
- (E) Assess whether alternative actions are available that would achieve the underlying lawful governmental objective and would have a lesser economic impact.

The following is an assessment from the department staff on how the Climate-Friendly and Equitable Communities rulemaking has fulfilled these requirements.

(A) Allow for the diverse administrative and planning capabilities of local governments

The proposed rules contain many requirements that are scaled to the diverse administrative and planning capabilities of Oregon's local governments. First, the rules only apply to the local governments in the state's metropolitan areas. Second, within the rules that apply to these areas, key requirements are scaled to population size, or provide opportunities for exemptions for smaller communities.

(B) Consider the variation in conditions and needs in different regions of the state and encourage regional approaches to resolving land use problems

Staff are proposing that land use and transportation scenario planning is required for the largest three metropolitan areas and optional for other areas. The scenario planning process and Division 44 greenhouse gas reduction targets are centered on a regional approach to problem solving.

(C) Assess what economic and property interests will be, or are likely to be, affected by the proposed rule

The department convened a 40-person advisory committee with members selected to represent a wide range of interests across each of the affected metropolitan areas, e.g. freight, home builders, disability rights advocates. Staff held a range of consultation

meetings with representatives from special interest groups to assess economic and property interests.

(D) Assess the likely degree of economic impact on identified property and economic interests

The department contracted with an economic consulting firm to provide an independent assessment of the degree of economic impact of the proposed rules. The department's Fiscal Impact Statement identified and assessed the impacts of the rules on small and large businesses, state agencies, local governments, and the public.

(E) Assess whether alternative actions are available that would achieve the underlying lawful governmental objective and would have a lesser economic impact

The department presented numerous draft rules through the rulemaking advisory committee and engaged in several meetings with affected local government staff. The proposed rules were modified several times to strike the correct balance of achieving the objective and minimizing economic impact.

VIII. RECOMMENDED ACTION

The department recommends that the commission:

1. Review the proposed amendments to administrative rules (OAR chapter 660, divisions 8, 12, and 44);
2. Consider the input of the rulemaking advisory committee;
3. Consider public comment on the draft rules, fiscal and housing impact statements provided at the March and May commission meetings; and
4. Adopt the proposed administrative rules.

IX. SAMPLE MOTIONS FOR ADOPTION

Approve staff recommendation

"I move that the Land Conservation and Development Commission adopt amendments to Oregon Administrative Rule Chapter 660, Division 8, Division 12, and Division 44 as drafted in Attachments C, D, and E of Agenda Item 3."

Approve modified staff recommendation

"I move that the Land Conservation and Development Commission adopt amendments to Oregon Administrative Rule Chapter 660, Division 8, Division 12, and Division 44 as drafted in Attachments C, D, and E of Agenda Item 3 with the following revisions..."

Hold the hearing open

“I move to continue the hearing for the purpose of accepting written testimony. Written testimony must be filed at the Salem office of the Department of Land Conservation and Development on or before...”

X. ATTACHMENTS

A. RULEMAKING CHARGE

B. SUMMARY OF DRAFT RULES AND CHANGES

C. DRAFT RULES FOR DIVISION 8

D. DRAFT RULES FOR DIVISION 12

E. DRAFT RULES FOR DIVISION 44

F. SUMMARY OF MARCH 30 TESTIMONY TO COMMISSION

G. CFEC DRAFT IMPLEMENTATION PLAN