Racial Equity Impact Statement

The State of Oregon requires that a rulemaking notice include “a statement identifying how adoption of the rule will affect racial equity in this state” (ORS 183.335(2)(a). Racial equity is a process of eliminating racial disparities and improving outcomes for Black, Indigenous, and other persons of color (BIPOC). It is the intentional and continual practice of changing policies, practices, systems, and structures by prioritizing measurable improvements in the lives of members of BIPOC populations. The agency is required to attempt to determine the racial groups that will be affected by the rule, and how the rule will increase or decrease disparities currently experienced by those groups. In this context, a disparate treatment of racial groups may be supportable if it addresses current disparities.

The proposed amendments to OAR 660-046-0205 contain amendments to clarify how Large Cities may regulate Middle Housing in Master Planned Communities. The rule amendments create additional regulatory options for large cities to determine how to allow Middle Housing in compliance with OAR 660-046. The amendments contain two new options for how Large Cities may regulate Middle Housing: 1) Pursuant to ORS 233.304, Large Cities may establish a variable rate System Development Charge (SDC) structure and 2) Large Cities may require a mix of middle housing types in Master Planned Communities. Large Cities may implement one or more of these regulatory options. An additional rule element will be added to section -0205 that, while not directly related to Master Planned Communities, clarifies how Large Cities could plan for infrastructure in subdivisions that are not part of an adopted master plan or that are smaller than 20 acres.

While the scope of the rule amendments is minimal and provide additional regulatory options to local governments, the rules amendments do not have an explicit racial equity focus. However, the new rules will impact Oregon residents living in Large Cities with designated Master Planned Community areas. The proposed rule amendments alter an existing framework of planning for infrastructure that treats all housing units equally. The result of this existing process is that there is no incentive for the development community to build smaller, more affordable, or more accessible units. Allowing cities to implement a different process that builds in advantages to the development of “non-traditional housing”, allows greater opportunity for BIPOC households to afford new housing and to access homeownership. Furthermore, the department is currently undergoing a separate process, directed by the Oregon Legislature under House Bill 2003, to modernize how local cities and counties plan for housing in a manner that results in more affordable, fair, and equitable housing outcomes. DLCD staff, with support of two working groups and a robust engagement process, will craft and deliver policy recommendations to address housing planning that promotes racial equity and equitable outcomes in cities and counties in Oregon to the Oregon Legislature by December 2022. Future requirements informed by this process will have implications for how cities and counties plan for housing, including in Master Planned Communities, that will require Oregon communities to advance racial equity and measure equitable housing outcomes.