



Oregon

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To: Land Conservation and Development Commission

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Subject: Agenda Item #12, September 26 to 27, 2024, LCDC Meeting

Update on Oregon Housing Needs Analysis (OHNA) Rulemaking

I. Agenda Item Summary

This agenda item describes key rulemaking updates and topics of House Bill 2001 (HB 2001), also known as the Oregon Housing Needs Analysis (OHNA). HB 2001 was passed by the Oregon Legislature in March 2023, requiring implementation through the development of administrative rules. This agenda item also outlines the progress the Department of Land Conservation and Development (DLCD or department) has made in this rulemaking effort.

a. Purpose

Staff will update the commission on key discussions and takeaways from the first phase of the OHNA rulemaking process.

b. Objective

Increase LCDC's awareness and understanding of OHNA rulemaking and policies in development. This information will help the commission prepare for the public hearing on the first portion of rules on October 25, 2024.

For further information about this report please contact Ethan Stuckmayer, Housing Division Manager, at 503-302-0937 or ethan.stuckmayer@dlcd.oregon.gov.

II. Background

In 2019, the Oregon Legislature passed House Bill 2003 which required the Oregon Housing and Community Services (OHCS) to create a methodology to estimate housing needs for the next 20 years. Initially called the Regional Housing Needs Analysis (RHNA), the Legislature renamed the methodology the Oregon Housing Needs Analysis (OHNA).

HB 2003 also directed DLCD to produce a report, which found that “the current [Statewide Land Use Planning Goal 10: Housing implementation framework] chronically underestimates housing need, especially for lower-income households, does not enforce responsibilities of local governments to comprehensively address housing need, and perpetuates geographic patterns of racial and economic segregation, exclusion, and inequity.”

In March 2023, the Legislature passed the "Affordable Housing and Emergency Homelessness Response Package" (House Bills 2001 and 5019). This legislation adopted many OHNA recommendations, shifting Oregon's housing planning to empower cities to boost housing production, affordability, and choice.

III. Advisory Committee Progress and Key Takeaways

a. OHNA Rules Advisory Committee

The OHNA Rules Advisory Committee (RAC) has met three times between the June and September 2024 LCDC meetings. At these recent meetings, the RAC discussed the first and second draft versions of rules. The RAC focused its attention on helping cities prioritize and demonstrate the effectiveness of their Housing Production Strategy (HPS) reports. The goal of helping cities with their HPS reports is to advance fair housing initiatives and meet community housing needs.

RAC members have emphasized that there is a shared responsibility between state and local governments in removing barriers to housing production, affordability, and choice. RAC members also informed the draft rules guiding how local governments plan their housing needs, and explored how DLCD can assist when cities are falling behind their Housing Production Targets.

Community members and local government representatives also are participating in robust discussion in technical advisory committees to inform the RAC's work. DLCD convened three technical advisory committees (TACs) to work on detailed aspects of the working draft rules: the Housing Needs and Production TAC, the Housing Accountability TAC, and Capacity and Urbanization TAC.

As draft rules under the Housing Needs and Production, and Housing Accountability Technical Advisory Committees (TACs) must be adopted by January 1, 2025. Staff

presented the second draft of rules for both TACs at the September 5, 2024, RAC meeting.

The rules under the Housing Capacity and Urbanization TAC must be adopted by January 1, 2026. As the timeline for the work of this TAC is longer, staff plan to present draft rules to the RAC in 2025.

b. Needs and Production Technical Advisory Committee

Integrating feedback from interested parties, including members of the RAC, TACs, and the broader community, the draft rules in the Needs and Production Technical Advisory Committee (NAPTAC) scope propose a refined framework for the Housing Production Strategy (HPS) program.

The proposed draft rules are designed to enhance the HPS by integrating fair housing planning, streamlined processes, and a balance between flexibility and predictability. The rules combine existing HPS program procedures for fair and equitable housing outcomes with a new fair housing analysis. This analysis helps cities determine needed housing types, characteristics, and locations. The approach offers an alternative safe harbor for identifying specific housing needs, aligns HPS actions with fair housing issues and identified housing needs, and prioritizes accountability and community voice.

Outstanding Policy Issues and Points of Ongoing Conversation

Since DLCD published the draft OHNA rules, staff have identified several issues, identified below.

- **Complexity of Safe Harbors:** A "safe harbor" protects from liabilities if specific criteria are met. It essentially offers a shield against penalties if the local government follows certain guidelines or acts in good faith within the scope of the law. While the draft rules propose a safe harbor for determining housing types, they do not provide similar safe harbors for housing characteristics or locations due to data limitations and the risk of unintended consequences. Staff are concerned about unintended consequences from local government reliance on poor data or an incomplete framework. Accordingly, staff have felt it too risky to develop universal safe harbors for these determinations. The lack of safe harbors for these components has raised concerns among some interested parties, including potential inconsistent implementation across the state, difficulties for cities in proving compliance, and worries that there are not enough incentives or requirements to push cities toward better housing outcomes.
- **Community Engagement Requirements:** The draft rules emphasize enhanced community engagement and interdepartmental collaboration, which may require additional resources. Although the focus on comprehensive community engagement is positive, DLCD is hearing concerns from cities with limited capacities about resource demands and the feasibility of undertaking extensive community

engagement. DLCD staff are also hearing concerns about community engagement for the action selection part of the HPS, as some participants find the methodology too technical. DLCD staff feel a key consideration is ensuring all cities can meet foundational community engagement requirements without disproportionate strain.

- **Racial Equity Framework for Decision Making:** The draft rules do not fully incorporate the restorative justice element of the commission's Racial Equity Framework for Decision-Making. To achieve true restorative justice in the HPS framework, cities would acknowledge the harm caused by past housing policies. Cities would also engage impacted community members and empower them to develop actions that best address their needs to remedy harms. The HPS framework is currently set up to give the HPS action selection authority to cities. Legal constraints may limit cities' ability to give action development authority to community members. While many participants recognize these limitations, there is still interest in integrating restorative justice elements in the rules and associated program.
- **Definition of Action:** While the draft rules define an action as a specific policy, code, program, or tool, they exclude exploratory work. Cities have raised concerns that exploratory work is needed to assess the feasibility of some actions and caution against dismissing these initial efforts as meeting HPS requirements.

c. Housing Accountability Technical Advisory Committee

Members of the Housing Accountability Technical Advisory Committee (HATAC) are working toward the following objectives:

- Developing criteria for cities to be referred into the housing acceleration program. Participants feel that baseline criteria should be established in the housing acceleration program framework, and that consideration of unique circumstances will be necessary if a city is identified as the lowest performer.
- Designing an efficient and effective audit of local housing barriers.
- Coordinating a partnership strategy with cities, including incentives and enforcement tools. While HATAC members agree that enforcement may be necessary in rare cases, the goal is to design the program to lead with support and assist cities that may encounter barriers.

d. Capacity and Urbanization Technical Advisory Committee

The Capacity and Urbanization Technical Advisory Committee (CAUTAC) met four times over the summer on June 20, 2024: July 11, July 18, and August 1, 2024.

CAUTAC members discussed how to implement the inventory of development-ready land in accordance with ORS 197A.015(4). Members pointed out that there are now several counties in the state that are required to adopt Housing Capacity Analysis and

Housing Production Strategies, and assessing development-readiness on county land is significantly more complex. In addition, CAUTAC members discussed the role of public facilities plans and capital improvement plans in determining the definitions of “readily served” and “serviceable” in ORS 197A.300.

Finally, CAUTAC members spent the last two recent meetings talking about how to zone for the housing types, characteristics, and location. Staff provided a mapping exercise for members to discuss assessing the sufficiency of development-ready land using public facility plan data and identifying gaps in that data.

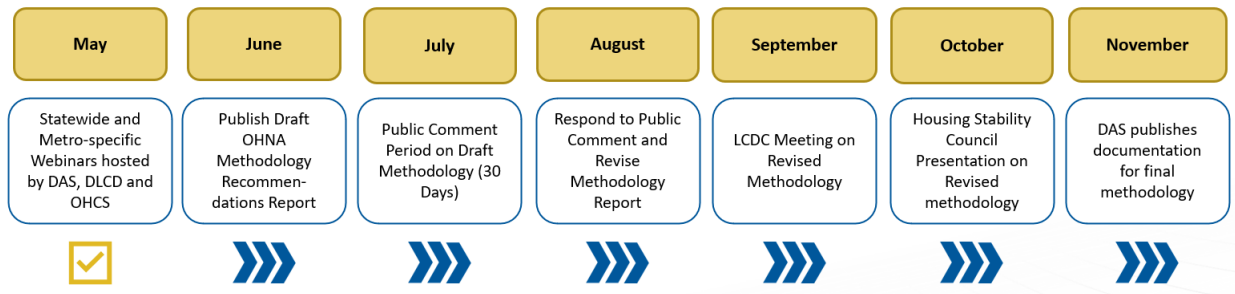
One of the areas of focus the CAUTAC is charged with is clarifying urbanization-planning processes to better evaluate an urban growth boundary amendment when a need has been identified in a Housing Capacity Analysis. Staff aims to bring greater clarity and certainty to these processes, which can help determine if more streamlining would increase the use and accessibility of DLCD’s current housing program.

IV. Non-Advisory Committee Rulemaking Activities

a. Oregon Housing Needs Analysis Methodology and Allocation

The Department of Administrative Services (DAS) Office of Economic Analysis (OEA) is responsible for conducting the OHNA annually, directed by House Bills 2001 (2023) and 2889 (2023). This includes estimating Oregon’s 20-year housing needs, allocating those needs to cities and counties, and publishing annual housing production targets. These targets set near-term (6- or 8-year) goals to benchmark progress. DLCD also has been coordinating with Metro staff on Metro-specific implementation.

The legislation allows DLCD and OHCS to study and suggest changes to DAS's OHNA methodology. All three agencies’ staff have worked together to explore improvements and set up a process for interested parties to give feedback on the methodology. DAS is required to publish the first results by January 1, 2025. The graphic below illustrates the overall methodology refinement process.



b. Racial Equity Framework for Decision Making

Adopted by commission in April 2023, [DLCD’s Racial Equity Framework for Decision Making](#) encourages the clear integration of racial equity into decisions, fostering

intentional changes, and anticipating adverse consequences for communities of color and other vulnerable populations. To address historic inequities, staff have formally integrated the framework into most elements of OHNA rulemaking. Using this framework facilitates a process that helps staff and community members identify and connect the impact of historical policies to contemporary housing issues and supports the development of solutions to rectify and prevent further harm.

c. Community Engagement and Focus Groups

DLCD staff held four focus group discussions in May 2024 with representatives of community-based organizations, housing service providers, lenders, affordable housing developers, and other interested parties as part of the OHNA rulemaking process.

d. Equitable Engagement Toolkit

Best practices in community engagement have evolved to address the changing climate, housing landscape, land use challenges, Oregon's shifting demographics, and the growing efforts to engage typically underrepresented communities.

To help address the above considerations, DLCD's Housing and Climate-Friendly and Equitable Communities (CFEC) teams partnered with Multicultural Collaborative and Knot Studio to create an Equitable Engagement Toolkit. Staff expect this toolkit to be completed this fall. This toolkit describes how local governments and consultants should best conduct equitable engagement with traditionally underserved and transportation disadvantaged populations. The toolkit intends to help local governments conduct an equity analysis related to CFEC requirements, meet the engagement requirements as part of a Housing Production Strategy, and carry out other types of engagement related to planning.

Staff hope to share the toolkit with commission next year.

V. Conclusion

No action is required. Staff appreciate any guidance or feedback the commission may have.

VI. Attachments

- a. Draft #2 of OAR 660-008 Rule Amendments



OAR Chapter 660, Division 008 - Draft Administrative Rules Matrix

Updated August 29, 2024

The purpose of this document is to provide an in-depth overview and understanding of a first iteration of draft rules Department of Land Conservation and Development (DLCD) staff developed in response to feedback received so far in the rulemaking process for the purpose of receiving additional feedback and continuing to develop rules into their adopted and final form by January 1, 2025. This document is organized by rule section and provides the following information:

OAR 660-008-XXXX - Rule Title	Plain Language Description	DLCD Staff 2.0 Policy Notes
<p>Oregon Administrative Rules (OAR) are organized numerically, beginning with a chapter number, which for DLCD is OAR Chapter 660. Then, individual divisions are denoted via a three-digit code, which for Goal 10 implementation is OAR Chapter 660, Division 008.</p> <p>Individual rules are assigned a four-number value, which for this example is denoted as 'XXXX' as a placeholder. Any rules will be assigned a four-digit code by adoption. For now, this first draft does not have final rule number assignments.</p> <p>At the beginning of a rule, a rule typically begins with text at the top. For this document track changes denotes proposed text, strikethrough denotes removed text, and unformatted denotes existing, unedited text.</p> <p>(1) A numerical value denotes a subsection. It is cited as "OAR 660-008-XXXX (1)"</p> <p>(a) Lower-case letters denote the next indentation. It is cited as "OAR 660-008-XXXX (1)(a)"</p> <p>(A) Upper-case letters denote the next indentation. It is cited as "OAR 660-008-XXXX (1)(a)(A)"</p> <p>(i) Lower-case roman numerals denote the next indentation. It is cited as "OAR 660-008-XXXX (1)(a)(A)(i)". Further indentations are generally rare.</p>	<p>This document includes a plain language description of how the rule functions, and what components are intended to do.</p> <p>This is intended to both 1) enable review and understanding of proposed rules with a limited technical background, and 2) provide insight into how DLCD staff intends for a rule to function, enabling feedback for future refinement.</p>	<p><i>This document also includes policy notes from DLCD staff speaking to how staff made decisions between the first draft of rule and this second draft and the underlying intent for decisions. It is also intended to speak to how feedback from the Rules Advisory Committee (RAC) and Technical Advisory Committees (TACs) were translated by staff into proposed rule.</i></p> <p><i>As mentioned, this rule is a second draft, and DLCD staff still expects policy and technical refinement to make the adopted rule operational and implementable in alignment with the statutory intent. As such, please keep in mind that the policy concepts presented herein are still conceptual and DLCD staff still expect them to undergo adjustments as rulemaking continues.</i></p>



OAR Chapter 660, Division 008 - Draft Administrative Rules Matrix	1
Housing Needs and Production	3
OAR 660-008-0000 - Purpose	3
OAR 660-008-0005 - Definitions	4
OAR 660-008-0100 – Contextualized Housing Need	12
OAR 660-008-0105 – Contextualized Housing Need Safe Harbor	18
OAR 660-008-01XX – Review of Contextualized Housing Need	22
OAR 660-008-0110 – Allocation of Buildable Land	23
OAR 660-008-0115 – Clear and Objective Approval Standards Required	25
OAR 660-008-0120 – Specific Plan Designations Required	26
OAR 660-008-0125 – The Rezoning Process	27
OAR 660-008-XXXX – Formerly “Regional Coordination”	28
OAR 660-008-XXXX – Formerly “Substantive Standards for Taking a Goal 2, Part II Exception Pursuant to ORS 197.303(3)”	29
OAR 660-008-0130 – Restrictions on Housing Tenure	30
OAR 660-008-0135 – Housing Capacity Analysis and Housing Production Strategy Deadlines	31
OAR 660-008-0140 – Housing Production Strategy Structure	33
OAR 660-008-0145 – Review of Housing Production Strategies	43
OAR 660-008-0150 – Midpoint Reporting on Housing Production Strategy Implementation	47
OAR 660-008-XXXX – Placeholder for “Housing Coordination Strategy”	49
Housing Acceleration	50
OAR 660-008-0x00 - Purpose	50
OAR 660-008-0x10 - Referral for Non-Compliance in Adoption of Housing Capacity Analysis and Housing Production Strategy	51
OAR 660-008-0x15 - Referral for Non-Compliance in Undertaking Actions in a Housing Production Strategy	53
OAR 660-008-0x20 - Referral based on Performance at the Housing Production Strategy Midpoint Report	56
OAR 660-008-0x25 - Department Audit for Cities Referred into the Housing Acceleration Program	60
OAR 660-008-0x30 - Housing Acceleration Agreement	70
OAR 660-008-0x35 - Non-Compliance in Entering or Abiding the Terms of a Housing Acceleration Agreement	75



Housing Needs and Production

OAR 660-008-0000 - Purpose

OAR 660-008-0000 - Purpose	Plain Language Description	DLCD Staff Policy Notes
<p>(1) The purpose of this division is to ensure opportunity for the provision of adequate numbers of needed housing units, the efficient use of buildable land within urban growth boundaries <u>across all communities in the state, and to provide greater certainty in the development process so as to reduce housing costs, and to provide a framework for evaluation and progress on housing production, affordability, and choice. Additionally, this division aims to promote safe, accessible, and affordable housing options for all Oregonians in their communities of choice, in alignment with the Affirmatively Furthering Fair Housing mandate. This division emphasizes fair housing outcomes, environmental justice, climate mitigation and resilience, and access to opportunity, following the principles of transparency, public engagement, and sustainability as outlined in ORS 197A.025.</u> This division is intended to provides standards for compliance with Goal 10 "Housing" and to implement ORS <u>chapter 197A, ORS 184.453, and ORS 184.55 which include statewide allocation of housing need under the Oregon Housing Needs Analysis, 197.303 through 197.307. This division also operationalizes the Housing Acceleration Program of the Oregon Housing Needs Analysis per ORS 197A.130.</u></p> <p>(2) OAR chapter 660, division 7, Metropolitan Housing, is intended to complement and be consistent with OAR chapter 660, division 8 and Statewide Planning Goal 10 Housing (OAR 660-015-0000(10). Should differences in interpretation between division 8 and division 7 arise, the provisions of division 7 shall prevail for cities and counties within the Metro urban growth boundary.</p>	<p>(1) The purpose of this division is to ensure there are enough housing units available and to use land efficiently within urban growth areas. It aims to make the development process more predictable and to create a system to evaluate and improve housing production, affordability, and choice. Additionally, the rule promotes safe, accessible, and affordable housing for everyone in Oregon, following fair housing laws. It emphasizes fair housing outcomes, environmental justice, climate resilience, and access to opportunities, while adhering to principles of transparency, public involvement, and sustainability. This division encompasses the Housing Capacity Analysis, Housing Production Strategy, and Housing Acceleration program. Overall, this rule is designed to meet the standards for "Goal 10: Housing" and implement specific Oregon laws related to housing.</p> <p>(2) Staff are currently working through a plan for how best to reconcile Division 7 with this Division as part of the OHNA rulemaking. As such, this rule will more than likely be amended in some manner</p>	<p>- Added 'mitigation' to better emphasize the proactive efforts to reduce climate pollution, acknowledging that addressing climate change involves not only building resilience to its impacts but also taking concrete steps to minimize contributions to it. This addition underscores the state's commitment to housing actions that contribute to the reduction of greenhouse gas emissions and is very relevant in the department's Transportation Planning Rules which intersect with this division's rules.</p>



OAR 660-008-0000 - Purpose	Plain Language Description	DLCD Staff Policy Notes
	in the future. For the time being, section 2 of this rule is maintained.	

OAR 660-008-0005 - Definitions

OAR 660-008-0005 - Definitions	Plain Language Description	DLCD Staff Policy Notes
<p>For the purpose of this division, the definitions in ORS 197.015, 197.295, and 197.303 <u>184.453, 184.455, 197.015, 197.660, 197A.015, 197A.018, 197A.210, 197A.230, 197A.300, 197A.348, and 197A.420</u> shall apply. In addition, the following definitions shall apply:</p>	<p>The definitions section provides clear and precise meanings for key terms used throughout Division 8. Defining key terms used in this division is intended to facilitate the implementation of housing policies, promote transparency, and ensure consistency in addressing housing needs and development within Oregon.</p>	<p>-</p>
<p>(1) "Attached Single Family Housing" means common-wall dwellings or rowhouses where each dwelling unit occupies a separate lot. "Action" means a specific policy, code, program, investment, administrative measure, advocacy effort, or other tool included in a Housing Production Strategy in alignment with ORS 197A.100 (3) and (4) which commits to implementation. An action may include exploratory work as an initial critical step in order to refine and implement an action. An action may include substantial expansion of existing programming which has proven to meet the City's needed housing types, characteristics, or locations or remedy or mitigate fair housing issues.</p> <p><u>(2) "Affirmatively furthering fair housing" has the meaning defined in ORS 197A.100 (9).</u></p> <p><u>(3) "Allocated housing need" has the meaning defined in ORS 197A.015 (1).</u></p> <p><u>(4) "Attached Multi-unit Housing" means attached housing where each dwelling unit is not located on a separate lot.</u></p> <p><u>(25) "Buildable Land" means residentially designated land within the urban growth boundary, including both vacant and developed land likely</u></p>	<p>-</p>	<p>- <i>In response to NAPTAC and interested party feedback the definition of "Action" was revised to name other specific tools that may be actions as well as to clarify the important role that exploratory work can play in the implementation of an action</i></p> <p>- <i>"Characteristics" definition added to list a minimum set of included characteristics</i></p> <p>- <i>In response to NAPTAC and interested party feedback the term "Exploratory work" was added to clarify the important role that exploratory work plays in Goal 10 planning while acknowledging the distinction between committal actions for the purposes of the obligations in the HPS</i></p>



OAR 660-008-0005 - Definitions	Plain Language Description	DLCD Staff Policy Notes
<p>to be redeveloped, that is suitable, available and necessary for residential uses. Publicly owned land is generally not considered available for residential uses. Land is generally considered “suitable and available” unless it:</p> <p>(a) Is severely constrained by natural hazards as determined under Statewide Planning Goal 7;</p> <p>(b) Is subject to natural resource protection measures determined under Statewide Planning Goals 5, 6, 15, 16, 17 or 18;</p> <p>(c) Has slopes of 25 percent or greater;</p> <p>(d) Is within the 100-year flood plain; or</p> <p>(e) Cannot be provided with public facilities.</p> <p><u>(6) “Characteristics” means the attributes or features of residential units that describe their physical, structural, functional, and/or ownership and tenure aspects. Characteristics include at minimum but are not limited to:</u></p> <p><u>(a) interior and exterior features to meet accessibility needs for all disabilities including mobility, auditory, visual, mental and behavioral, and other disabilities</u></p> <p><u>(b) number of bedrooms and bathrooms;</u></p> <p><u>(c) single-level living layout with eating, sleeping, bathing, and cleaning on one level;</u></p> <p><u>(d) multiple complete living spaces within the unit or with adjacent units to support multi-generational living;</u></p> <p><u>(e) construction type including site-framed and prefabricated;</u></p> <p><u>(f) culturally relevant features like multiple kitchens and interior layouts with accommodating gathering spaces;</u></p> <p><u>(g) affordability;</u></p> <p><u>(h) tenure type including rental; market-, shared-, limited-, and zero-equity ownership structures as applied to various tenure models like</u></p>		<p>- “Fair housing choice” definition revised to be consistent with protected class language as reflected in other areas of rules and simplified with additional detail to be included in guidance materials</p> <p>- “Locations” definition added to list a minimum set of included locations that must be considered in identifying the housing locations that are needed locally, including locational harms, multimodal transportation and infrastructure considerations, reference to Housing Equity Indicator (e) from ORS 456.602 locations, and the “key destinations” named in the Department’s Transportation Planning Rule as follows:</p> <p>“Key destinations may include, but are not limited to:</p> <p>(a) Climate-friendly areas;</p> <p>(b) Pedestrian-oriented commercial areas outside of climate-friendly areas;</p> <p>(c) Transit stations, stops, and terminals;</p> <p>(d) Retail and service establishments, including grocery stores;</p> <p>(e) Child care facilities, schools, and colleges;</p> <p>(f) Parks, recreation centers, paths, trails, and open spaces;</p> <p>(g) Farmers markets;</p> <p>(h) Libraries, government offices, community centers, arts facilities, post offices, social service centers, and other civic destinations;</p> <p>(i) Medical or dental clinics and hospitals;</p> <p>(j) Major employers;</p>



OAR 660-008-0005 - Definitions	Plain Language Description	DLCD Staff Policy Notes
<p><u>community land trusts and resident-owned cooperatives; fee simple ownership; and</u></p> <p><u>(i) climate adaptation and mitigation features including energy efficiency building science, water conservation in appliances and site design, stormwater management, and ventilation and indoor air quality.</u></p> <p><u>(7) "City" has the meaning defined in ORS 197A.015 (3).</u></p> <p>(3) "Consumers of Needed Housing" means any persons who inhabit or are anticipated to inhabit Needed Housing.</p> <p>(4) "Detached Single Family Housing" means a housing unit that is free standing and separate from other housing units.</p> <p><u>(8) "Development ready lands" has the meaning defined in ORS 197A.015 (4).</u></p> <p><u>(9) "Exploratory work" means studies, research, and other planning analyses intended to inform a City's HPS planning work but which are noncommittal in nature and do not on their own meet the definition of an action. Exploratory work may be a subtask of a committal action to further refine an action. Exploratory work may be included in an HPS and planned independently of a specific- action, such as to inform future HPSs. However, that work will not be considered to function as an action that meets housing need in the current HPS cycle.</u></p> <p><u>(10) "Fair housing choice" means individuals and persons having the information, opportunity, and options to live where they choose without unlawful discrimination and other barriers related to Federal Housing Act protected classes, state protected classes, and any locally designated protected class, face, color, religion, sex, familial status, national origin, or disability, and that their choices realistically include housing options that are affordable, in integrated areas, and areas with access to opportunity.</u></p> <p><u>(11) "Fair Housing Issue" means a condition in a Ceity that restricts fair housing choice or access to opportunity and/or results in inequitable housing outcomes.</u></p>		<p><i>(k) Gyms and health clubs;</i></p> <p><i>(l) Major sports or performance venues; and</i></p> <p><i>(m) Other key destinations determined locally."</i></p> <p><i>- "Midpoint" definition added to list to offer clarity</i></p> <p><i>- Added definition for "Past discriminatory actions or practices related to land and housing access" in order to simplify the rule language in the Contextualized Housing Need with reference to the applicable definition, including adding some known past discriminatory actions</i></p> <p><i>- "Protected Class" definition edited to resolve typo</i></p> <p><i>- "Residents of Needed Housing" revised to "Community Members of Needed Housing" in response to a call for a more inclusive approach</i></p> <p><i>- Added a "Safe Harbor" definition to clarify the limited use and role of safe harbors in these rules</i></p> <p><i>- Removed "Translation" definition on account of the term not being used in the rules at this stage and due to the fact that the work originally conveyed by the term is outlined in rule</i></p>



OAR 660-008-0005 - Definitions	Plain Language Description	DLCD Staff Policy Notes
<p><u>(12) "Fair Housing Issue Area Analysis" means an analysis of a City's current housing conditions to identify fair housing issues.</u></p> <p>(13) "Housing Capacity Analysis" means a document, incorporated into a <u>C</u>city's comprehensive plan by ordinance, which complies with the provisions of ORS 197.296, <u>197A.270, 197A.289, and 197A.335</u>. A Housing Capacity Analysis is an assessment of housing need and capacity that includes the inventory, determination, and analysis required under ORS 197.296(3), <u>197A.270(3-4)</u>.</p> <p><u>(14) "Housing equity indicators" means the information annually produced by the Housing and Community Services Department under ORS 456.602.</u></p> <p>(6) "Housing Needs Projection" refers to a local determination, justified in the plan, of the mix of housing types, amounts and densities that will be:</p> <p>(a) Commensurate with the financial capabilities of present and future area residents of all income levels during the planning period;</p> <p>(b) Consistent with any adopted regional housing standards, state statutes and Commission administrative rules; and</p> <p>(c) Consistent with Goal 14 requirements.</p> <p>(15) "Housing Production Strategy" means a specific tool, action, policy, or measure a city will implement to meet the housing needs described in a Housing Capacity Analysis. A Housing Production Strategy is one component of a Housing Production Strategy Report <u>has the meaning defined in ORS 197A.015 (7)</u>.</p> <p>(8) "Housing Production Strategy Report" means the report cities must adopt within one year of their deadline to complete an updated Housing Capacity Analysis, pursuant to OAR 660-008-0050.</p> <p><u>(16) "Housing production dashboard" means the information annually produced by the Housing and Community Services Department under ORS 456.601.</u></p>		



OAR 660-008-0005 - Definitions	Plain Language Description	DLCD Staff Policy Notes
<p><u>(17) "Housing Production Target" has the meaning defined in ORS 184.455.</u></p> <p><u>(18) "Location" – means the a specific geographic position or series of places within a City’s boundaries. Locations of a residential unit and its contextual relationship within a broader area which can significantly impact equity, quality of living, and access to opportunity. Locations include at a minimum but are not limited to:</u></p> <p><u>(a) Community assets, including but not limited to:</u></p> <p><u>(A) Key destinations as defined by OAR 660-012-0360(2), and</u></p> <p><u>(B) areas with multimodal connectivity infrastructure, including the availability of road networks, public transit options, bike lanes, and pedestrian pathways;</u></p> <p><u>(b) Harms, including but not limited to:</u></p> <p><u>(A) environmental conditions that may lead to harm such as areas prone to natural hazards, industrial uses, and highways and freeways; and</u></p> <p><u>(c) areas that are segregated by race and income and/or concentrated racially and economically.</u></p> <p><u>(19) "Manufactured Dwelling Park" has the meaning defined in ORS 446.003.</u></p> <p><u>(20) "Middle Housing" has the meaning defined in ORS 197A.420 (1)(c)(A-E).</u></p> <p>(9) "Multiple Family Housing" means attached housing where each dwelling unit is not located on a separate lot.</p> <p><u>(21) "Needed Housing" has the meaning defined in ORS 197A.018 means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels, including at least the following housing types:</u></p> <p>(a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;</p>		



OAR 660-008-0005 - Definitions	Plain Language Description	DLCD Staff Policy Notes
<p>(b) Government assisted housing;</p> <p>(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;</p> <p>(d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and</p> <p>(e) Housing for farmworkers.</p> <p><u>(22) "Oregon Housing Needs Analysis" has the meaning defined in ORS 184.451.</u></p> <p><u>(23) "Past discriminatory actions or practices related to land and housing access" means policies, programs, and other practices which oppressed and discriminated against protected classes and other marginalized communities, and which are particularly oriented to place, belonging, stability, housing, wealth-building, and the lands themselves that occurred in the City and region. This includes but is not limited to:</u></p> <p><u>(a) The historical and ongoing impact on the Indigenous stewards and residents of the lands, including land seizure, massacre, attempted erasure, and displacement; the geographic locations of land seizure and displacement including reservations and treaty lands;</u></p> <p><u>(b) The imposition of the ownership model on the land; the Donation Land Act and the associated land grants made exclusively to white settlers in the mid-nineteenth century; laws illegalizing ownership of land for women, Black people, Indigenous people, People of Color, and other protected class identities or marginalized identities experiencing disparate housing outcomes;</u></p> <p><u>(c) Land and housing access restrictions like sundown laws and their geographic boundaries; segregated schools, neighborhoods, parks, and natural areas and their locations; mortgage redline maps; insurance blueline maps; and histories of block-busting practices;</u></p> <p><u>(d) Urban renewal and large public works projects that displaced communities, including transportation infrastructure projects, freeway</u></p>		



OAR 660-008-0005 - Definitions	Plain Language Description	DLCD Staff Policy Notes
<p><u>development, and other uses of eminent domain to seize property and wealth; land use and zoning decisions that systematically excluded or segregated marginalized communities, limited their access to desirable neighborhoods, or enforced discriminatory land use practices; and</u></p> <p><u>(e) Other occurrences of property seizure and displacement based on protected class status or other marginalized identities.</u></p> <p>(24) “Producers of Needed Housing” means developers, builders, service providers, or other persons or entities providing materials and funding needed to build Needed Housing. Producers of Needed Housing may include non-profit organizations, for-profit organizations, or public entities.</p> <p><u>(25) "Protected Class" includes the meaning defined in ORS 659A.425, which encompasses federally protected classes and Oregon's state protected classes, in addition to any locally protected classes as applicable.</u></p> <p><u>(26) “Public body” has the meaning defined in ORS 174.109.</u></p> <p>(27) “Redevelopable Land” means land zoned for residential use on which development has already occurred but on which, due to present or expected market forces, there exists the strong likelihood that existing development will be converted to more intensive residential uses during the planning period.</p> <p><u>(28) "Community Members of Needed Housing" means any persons who inhabit or are anticipated to inhabit Needed Housing.</u></p> <p><u>(29) “Safe harbor” means an optional course of action that a City may use to satisfy a requirement of Goal 10. Use of a safe harbor prescribed in this division will satisfy the requirement for which it is prescribed. A safe harbor is not the only way or necessarily the preferred way to comply with a requirement and it is not intended to interpret the requirement for any purpose other than applying a safe harbor within this division.</u></p> <p><u>(30) "Tenure" means the full a-range of housing tenure types, encompassing forms of occupancy and ownership, including but not limited to rental arrangements, full equity owner-occupancy, and shared</u></p>		



OAR 660-008-0005 - Definitions	Plain Language Description	<i>DLCD Staff Policy Notes</i>
<p><u>equity, zero equity, or limited equity models such as community land trusts and cooperatives.</u></p> <p><u>(31) "Single-Room Occupancy Housing" has the meaning defined in ORS 197A.430.</u></p>		



OAR 660-008-0100 – Contextualized Housing Need

OAR 660-008-0100 – Contextualized Housing Need	Plain Language Description	DLCD Staff Policy Notes
<p><u>The Contextualized Housing Need is an analysis relating a City's Allocated Housing Need and Housing Production Target, as provided in ORS 184.451, to local qualitative and quantitative information. The qualitative and quantitative data describes current and future housing needs with a consideration of population and market trends to support an analysis of Fair Housing Issues in the City with the charge to Affirmatively Further Fair Housing. The analysis must include consideration of Federal Housing Act protected classes, all state protected classes, all locally protected classes, all named communities in Oregon Revised Statutes included in Needed Housing ORS 197A.018, and any community which is experiencing disparate housing outcomes in a City.</u></p> <p><u>The output of the analysis is a determination of the needed types, characteristics, and locations of housing that a City must plan for in its 6 or 8-year housing production cycle that mitigate and address the identified fair housing issues informed from the Fair Housing Issue Area Analysis. Subsequent Housing Capacity Analyses and any land efficiency measures taken, as well as the Housing Production Strategy and all actions therein, must respond to the identified needed housing types and locations, and characteristics as applicable, as determined by this Contextualized Housing Need. To the extent it exists, a City may utilize information, data, and analyses from other recent housing planning efforts within the City including, but not limited to, Consolidated Plans for any of HUD's Community Planning and Development formula grant programs including Community Development Block Grant Entitlement Communities.</u></p>	<p>The Contextualized Housing Need is an analysis that localizes and specifies the housing attributes that a City needs for the purposes of its Goal 10: Housing planning work, spanning both the Housing Capacity Analysis and the Housing Production Strategy. The Oregon Housing Needs Analysis is operationalized by utilizing the statewide Allocated Housing Need and Housing Production Target to anchor the quantitative needs in a City in conjunction with localized analysis of further quantitative and qualitative needs that encompass housing types, characteristics, and locations with particular focus on fair housing issues, protected classes, and other priority populations named in statute or experiencing inequitable housing outcomes to Affirmatively Further Fair Housing.</p>	<ul style="list-style-type: none"> - In response to NAPTAC comments noting the absence of AFFH in this section and the need for clarity on housing work specifically to serve older persons, staff incorporated AFFH and the breadth of communities that must be considered and served into this description, including spelling out the applicability of all protected classes adding a Needed Housing statute citation to encompass all communities named in statute - Staff reorganized some of the information in this introduction to improve readability - Staff added clarity that analyses from existing fair housing planning work may be utilized to support completion of the Contextualized Housing Need - Feedback was received regarding the potential for related housing planning efforts and reports being updated during the HPS development process. Staff will include notes in guidance materials to encourage Cities to coordinate interdepartmentally and request deadline adjustments from the Department if appropriate based on other programming, but generally to use the most recently available information to the inform the HPS.



OAR 660-008-0100 – Contextualized Housing Need	Plain Language Description	DLCD Staff Policy Notes
<p><i>The following existing rule that is revised in this new section is currently in OAR 660-008-0050:</i></p> <p>(1) Contextualized Housing Need — A contextualization and incorporation of information from the most recent Housing Capacity Analysis that describes current and future housing needs in the context of population and market trends.</p> <p>(a) At a minimum, <u>this the Contextualized Housing Need</u> must include a discussion of:</p> <p>(a) An inventory and evaluation of local conditions related to housing to be used in and inform the Fair Housing Issue Area Analysis as required in subsection (b) of this section and must include review of:</p> <p>(A) The state-provided Housing Production Dashboard as described in ORS 456.601;</p> <p>(B) The state-provided Equity Indicators as described in ORS 456.603;</p> <p>(C) As available and applicable, the following data sources regarding households experiencing homelessness:</p> <p>(A) Socio-economic and demographic trends of households living in existing Needed Housing. This must include a disaggregation of households living in existing Needed Housing by race and ethnicity;</p> <p>(B) Measures already adopted by the city to promote the development of Needed Housing;</p> <p>(C) Market conditions affecting the provision of Needed Housing;</p> <p>(D) Existing and expected barriers to the development of Needed Housing;</p> <p>(E) An estimate of the number of people or households experiencing homelessness. Estimates must include, as available, the following data sources:</p> <p>(i) An estimate of regional housing need for people experiencing homelessness provided by the state or regional entity;</p>	<p>(1) The Contextualized Housing Needs section requires Cities to provide a detailed analysis of their allocated housing need for the Housing Capacity Analysis and housing production targets for the Housing Production Strategy as outlined by the Oregon Housing Needs Analysis (OHNA). This analysis serves as the foundation for completing both the Housing Capacity Analysis and the Housing Production Strategy. This involves an inventory and evaluation of various qualitative and quantitative sources, including the Housing Production Dashboard, Equity Indicators, mapped discriminatory actions, and community engagement data. These elements collectively inform the Fair Housing Issue Area Analysis.</p> <p>The Fair Housing Issue Area Analysis requires Cities to examine both quantitative and qualitative data from the inventory of local conditions to identify and address barriers to housing choice and opportunity for protected classes, the named communities in the statutory definition of Needed Housing, and any community with disparate and inequitable housing outcomes. This analysis integrates the principles of Affirmatively Furthering Fair Housing (AFFH) into the contextualization process by ensuring that Cities actively promote fair housing and equal opportunity.</p>	<p><i>- Based on NAPTAC feedback, clarified the scope of communities that are included in the Contextualized Housing Need process and Fair Housing Issue Area Analysis in particular, including spelling out the applicability of all protected classes adding a Needed Housing Statute citation to subsection (b) to encompass all communities named in statute</i></p> <p><i>- Restructured and consolidated the listed data sources, deferring to applicability and availability where appropriate throughout.</i></p> <p><i>- The State of Oregon’s Analysis of Impediments to Fair Housing Choice and its data and analyses were added to the list of additional potential data sources.</i></p> <p><i>- Revised the past discriminatory actions rule to clarify that the mapping of past discriminatory actions can be conducted once every three cycles, but the comparison of the mapped past discriminatory actions to current conditions must occur each cycle</i></p> <p><i>- Added minimum set of past discriminatory practices that a City must research and review in the inventory and evaluation of local conditions</i></p> <p><i>- Added (G) which is statutorily required data to include in the HPS; omission of</i></p>



OAR 660-008-0100 – Contextualized Housing Need	Plain Language Description	DLCD Staff Policy Notes
<p>(ii) The applicable Housing and Urban Development Point-in-Time count conducted by the Continuum of Care that the <u>C</u>ity is located within;</p> <p>(iii) The applicable Housing and Urban Development Annual Homelessness Assessment Report; and</p> <p>(iv) The applicable McKinney-Vento Homeless Student Data for all school districts that overlap with the <u>C</u>ity boundary;</p> <p><u>(v) Data collected by local Coordinated Care Organizations;</u></p> <p><u>(vi) Data collected by community action agencies;</u></p> <p><u>(vii) The capacity of existing emergency shelters;</u></p> <p><u>(viii) Rental and homeowner vacancy rates;</u></p> <p><u>(ix) Change in gross or net property values or rent over time;</u></p> <p><u>(x) Qualitative data that illustrate specific needs of people experiencing homelessness; and</u></p> <p><u>(xi) Other local houseless population datasets</u></p> <p><u>(D) Locally completed Community Engagement per subsection (2) of this section;</u></p> <p><u>(E) The actions already adopted by the City to promote the development of Needed Housing including those outlined in the City's most recently completed survey to meet the requirements of ORS 197A.110 and a reflection on the efficacy of each implemented action;</u></p> <p><u>(F) Market conditions affecting the provision of Needed Housing;</u></p> <p><u>(G) Existing and expected barriers to the development of needed housing;</u></p> <p><u>(H) Past discriminatory actions or practices related to land and housing access including mapping of the geographies impacted by these actions and their relationship to current patterns of racial and ethnic integration and segregation, as well as affluence and poverty as illustrated in the Equity Indicators defined in ORS 456.602.</u></p>	<p>This analysis focuses on six key fair housing issue areas providing fair access to and equitable outcomes for:</p> <p>(A) Housing tenure and wealth building choice</p> <p>(B) Housing choice for people experiencing homelessness</p> <p>(C) Housing choice for people with disabilities</p> <p>(D) Community assets and mitigation of exposure to harms</p> <p>(E) Housing stability, anti-displacement and displacement mitigation</p> <p>(F) Any additional issue areas the City has reason to believe may be of concern in the community or are required to address, including cities subject to OAR 660-012-0310(2) and Cities within Metro with Region 2040 centers.</p> <p>This thorough contextualization should reveal the housing needs and fair housing issues within the City, which then must be responded to with the identification of the housing types, characteristics, and locations of housing that should be planned for as part of their 6- or 8- year Housing Production Strategy cycle in order to remedy or mitigate the fair housing issues identified and meet the City's housing need.</p>	<p><i>this existing rule was a clerical staff error in the first draft of rules.</i></p> <p><i>- Added Fair Housing Issue Area regarding patterns of racial and ethnic integration and segregation and their relationship to patterns of affluence and poverty in response to NAPTAC, RAC, and other feedback to center this work as an issue area in addition to its presence in OAR 660-008-100(a)(B) as one of the Equity Indicators.</i></p> <p><i>- Subsections (b) and (c) were modified such that (b) now references the conclusive step of identifying fair housing issues, instead of that step being referenced in (c).</i></p> <p><i>- Clarity was added regarding the potential pathway of not identifying any fair housing issues in a given fair housing issue area by noting that should a jurisdiction believe there are no issues in their jurisdiction among any of the fair housing issue areas that findings demonstrating that must be provided. This is now reflected in subsection (c)(A)(B).</i></p> <p><i>-Subsection (d) is now exclusively the step to identify needed housing types, characteristics, and locations based on and in response to subsection (b)'s Fair Housing Issue Area Analysis and conclusions of Fair Housing Issues.</i></p>



OAR 660-008-0100 – Contextualized Housing Need	Plain Language Description	DLCD Staff Policy Notes
<p><u>(i) Once initially completed, the mapped past discriminatory actions portion of this item may be used for a total of three Housing Capacity Analysis and Housing Production Strategy cycles before it must be updated and renewed.</u></p> <p><u>(ii) Each Housing Production Strategy cycle, a City must conduct a renewed comparison of the mapped past discriminatory actions to current patterns of racial and ethnic integration and segregation as well as affluence and poverty.</u></p> <p><u>(iii) The City shall title this item to include reference to the year it was completed; and-</u></p> <p><u>(I) As available and applicable, the following data points:</u></p> <p><u>(i) Trends that may negatively impact preservation of affordable naturally occurring market-rate units, such as redevelopment rates and changes in market conditions; and</u></p> <p><u>(ii) Data and analyses in the State of Oregon Analysis of Impediments to Fair Housing Choice.</u></p> <p><u>(b) A Fair Housing Issue Area Analysis concluding in identifying fair housing issues in the community. This analysis must be conducted across the following issue areas providing fair access to and equitable outcomes for all Federal Housing Act protected classes, all state protected classes, all locally protected classes, all named communities in Oregon Revised Statutes included in Needed Housing as defined in ORS 197A.018, and any community which is experiencing disparate housing outcomes in a City:</u></p> <p><u>(A) Housing tenure and wealth building choice</u></p> <p><u>(B) Housing choice for people experiencing homelessness</u></p> <p><u>(C) Housing choice for people with disabilities</u></p> <p><u>(D) Community assets and mitigation of exposure to harms</u></p> <p><u>(E) Housing stability, anti-displacement and displacement mitigation</u></p>		



OAR 660-008-0100 – Contextualized Housing Need	Plain Language Description	DLCD Staff Policy Notes
<p><u>(F) Housing choice for people of all races and ethnicities by addressing and disrupting patterns of segregation and integration, and their correlation with affluence and poverty.</u></p> <p><u>(G) Any additional issue areas the City has reason to believe may be of concern in the community or are required to address, including cities subject to OAR 660-012-03150(12) and jurisdictions within Metro with Region 2040 centers, as defined in OAR 660-012-005(24).</u></p> <p><u>(c) If a City concludes that there are no fair housing issues in one or more of the identified fair housing issue areas listed in subsection (b), the City must provide a detailed justification for this conclusion. This justification must include:</u></p> <p><u>(A) A comprehensive analysis from subsection (1) of this section which demonstrates the absence of disparate housing outcomes or barriers in the issue area(s) and the presence of housing choice and stability for all community members, and</u></p> <p><u>(B) A plan for ongoing monitoring to ensure that fair housing issues do not emerge in the future, including a commitment to re-evaluate the issue area(s) in subsequent Contextualized Housing Need analyses and Housing Production Strategy adoptions.</u></p> <p><u>(d) Description and identification of the housing types, characteristics, and locations needed to redress, remedy, or mitigate the Fair Housing Issues identified in subsection (b).</u></p>		
<p>(2) The inventory and evaluation of local conditions and its use in the Fair Housing Issue Area Analysis must also include, to the extent these data sources are available and applicable, review and evaluation of:</p> <p>Other types and sources of data to refine housing need for those experiencing homelessness, including:</p> <p>(i) Data collected by local Coordinated Care Organizations;</p> <p>(ii) Data collected by community action agencies;</p> <p>(iii) The capacity of existing emergency shelters;</p>	<p>(2) There are additional sources of information that may differ in quality and availability for different Cities but which can be utilized in the Contextualized Housing Need analyses.</p>	<p>- Removed this subsection since these additional sources were moved to subsection 1</p>



OAR 660-008-0100 – Contextualized Housing Need	Plain Language Description	DLCD Staff Policy Notes
<p>(iv) Rental and homeowner vacancy rates;</p> <p>(v) Change in gross or net property values or rent over time;</p> <p>(vi) Qualitative data that illustrate specific needs of people experiencing homelessness; and</p> <p>(vii) Other local houseless population datasets</p>		
<p><u>(2) The Contextualized Housing Need must be informed by local community engagement feedback. The Contextualized Housing Need must include a summary of the process by which the City engaged Community Members of Needed Housing and Producers of Needed Housing, especially with regard to Federal Housing Act protected classes, all state protected classes, all locally protected classes, and the engagement feedback and results. A City must work interdepartmentally in developing and implementing its engagement work for the Contextualized Housing Need, including but not limited to the planning, permitting, and community development departments. A City must solicit direct feedback regarding both its analysis of Fair Housing Issue Areas and its determinations of the City's needed housing types, characteristics, and locations. A City may refer to the Department's Equitable Engagement Toolkit to employ best practices regarding equitable engagement. To the extent it exists, a City must utilize engagement from other housing-related planning efforts within the City including, but not limited to, Consolidated Plans for any of HUD's Community Planning and Development formula grant programs including Community Development Block Grant Entitlement Communities, Transportation System Plan updates (OAR 660-012-0120 through 660-012-0135), and public engagement for Severely Rent Burdened Households as described in OAR 813-112-0010. If the City has comprehensive and recent housing-oriented engagement efforts that sufficiently inform the Contextualized Housing Need and the City finds that additional engagement would not align with best practices in the Equitable Engagement Toolkit, the City may rely entirely on existing engagement feedback and must include an explanation for this determination in the engagement summary. The summary must include:</u></p>	<p>(3) Community engagement is a critical component of contextualizing a City's housing need and the allowable and applicable community engagement efforts are outlined. Generally, a City must utilize any recently completed housing-related engagement efforts which can inform the identification of fair housing issues or the housing types, characteristics, and locations needed in order to remedy or mitigate fair housing issues. If such recent community engagement information is not available or insufficient, a City must conduct community engagement efforts in order to obtain such information and is encouraged to refer to the Equitable Engagement Toolkit for best practices. A summary and description of community engagement efforts and the outcomes in the Contextualized Housing Need is required.</p>	<p><i>- Replaced “protected classes” to “Federal Housing Act protected classes, all state protected classes, all locally protected classes” to be consistent with the other areas of draft rule that reference this language.</i></p> <p><i>- Amended reference to Consolidated Plans to be more inclusive of other HUD programming and not exclusive to CDBG funding</i></p> <p><i>- Added additional language to further clarify that if sufficient recent housing related engagement exists to inform the work of the Contextualized Housing Need that additional engagement for the Contextualized Housing Need is not required</i></p> <p><i>- Feedback was received that the Climate Friendly Area Plans equity analysis and engagement citation as well as how this work should be represented in rule was incorrect and so staff have now updated the citation to correct this issue.</i></p> <p><i>- Clarified (c) to ensure that the accounting for feedback that both influenced and did not influence the</i></p>



OAR 660-008-0100 – Contextualized Housing Need	Plain Language Description	DLCD Staff Policy Notes
<p><u>(a) A list and description of interested parties and community groups who will be impacted by choices made in the Housing Capacity Analysis and actions included in a Housing Production Strategy, stating who was engaged and why, including Community Members of Needed Housing and Producers of Needed Housing.</u></p> <p><u>(b) A summary of feedback received from each engagement effort or event.</u></p> <p><u>(c) A description of the major feedback themes from interested parties and community members that influenced the identification of Fair Housing Issues and determination of the housing types, characteristics, and locations that are needed in the City. For any major feedback themes that did not result in the identification of a fair housing issue or a determination of housing types, characteristics, and/or locations needed to remedy or mitigate a fair housing issue, an explanation must be provided detailing why the feedback did not lead to a corresponding conclusion. For any major feedback themes which did inform the identification of a fair housing issue or a determination of housing types, characteristics, and/or locations needed to remedy or mitigate a fair housing issue must be attributed accordingly.</u></p> <p><u>(d) An evaluation of how to improve engagement practices for future housing engagement efforts conducted by the City, including but not limited to improvements in Affirmatively Furthering Fair Housing through future engagement efforts.</u></p>		<p><i>development of the HPS is expected at the theme level rather than for every comment made across all engagement efforts – the programmatic intent is for all major feedback themes to be accounted for as either influencing outcomes or not.</i></p>

OAR 660-008-0105 – Contextualized Housing Need Safe Harbor

OAR 660-008-0105 – Contextualized Housing Need Safe Harbor	Plain Language Description	DLCD Staff Policy Notes
<p><u>(1) The following safe harbor may be utilized by a City in determining its Needed Housing type mix in the Contextualized Housing Need:</u></p> <p><u>(a) Any City with a population of 25,000 or greater and any City within a metropolitan service district must plan for at least 50% of new residential units to be attached multi-unit and single room occupancy</u></p>	<p>This is a new rule that outlines a safe harbor for Cities to use for contextualizing their housing need for the purposes of planning for housing in both their Housing Capacity Analysis and Housing Production Strategy requirements.</p>	<p><i>- Feedback was received both to retain the charge for Cities to “provide the opportunity for” the housing type mixes in this safe harbor and to change the charge to be for Cities to “plan for” the housing type mixes in this safe harbor.</i></p>



OAR 660-008-0105 – Contextualized Housing Need Safe Harbor	Plain Language Description	DLCD Staff Policy Notes
<p><u>housing of 20 units or greater and at least 25% of new residential units to be attached multi-unit and single room occupancy housing of 19 units or fewer and middle housing.</u></p> <p><u>(b) A City with a population of 10,000 to 24,999 must plan for at least 25% of new residential units to be attached multi-unit and single room occupancy housing of 20 units or greater and at least 25% of new residential units to be attached multi-unit and single room occupancy housing of 19 units or fewer and middle housing.</u></p> <p><u>(c) A City with a population up to 10,000, must plan for at least 20% of new residential units to be attached multi-unit and single room occupancy housing of 20 units or greater and at least 20% of new residential units to be attached multi-unit and single room occupancy housing of 19 units or fewer and middle housing.</u></p> <p><u>(2) When applying the safe harbor as outlined in section 1, Cities must comply with laws regarding planning for Manufactured Dwelling Parks and any other applicable housing types with additional planning requirements.</u></p> <p><u>(3) A City may choose not to utilize this safe harbor for making its Needed Housing type mix determination as part of the Contextualized Housing Need, in which case the City must make a separate type mix determination and demonstrate how that type mix resolves and mitigates the fair housing issues and meets the unmet housing need in the community.</u></p>	<p>(1) The drafted rule provides a safe harbor specifically for a City determination of the housing type mix that is needed and being planned for – any City may plan for a housing type mix which meets the stated criteria and will be in compliance with this portion of Goal 10 planning work.</p> <p>(a) A City with a population of 25,000 or greater or a City within a metropolitan service district must assume and plan for at least 50% of new residential units to be multi-unit attached housing and 25% of new residential units to be middle housing.</p> <p>(b) A City with a population between 10,000 and 24,999 must assume and plan for at least 25% of new residential units to be multi-unit attached housing and 25% of new residential units to be middle housing.</p> <p>(c) A City with a population below 10,000 must assume and plan for at least 20% of new residential units to be multi-unit attached housing and 20% of new residential units to be middle housing.</p> <p>(2) If cities use the applicable assumption as outlined in section 1, they cannot dismiss planning for Manufactured Dwelling Parks nor any other related housing type-specific requirements that may be applicable.</p>	<p><i>Given the comprehensive nature of the Housing Production Strategy program beyond zoning for various housing types and into promoting and incentivizing various housing types, staff have amended the safe harbor charge to be for Cities to “plan for” the housing type mixes listed.</i></p> <p><i>- Feedback was received to modify the structure of the safe harbor for Cities to plan to increase their housing type mix shares for multi-unit attached and middle housing from their existing housing type mix by a certain percentage which would likely anchor the safe harbor to lower shares of housing type mix for multi-unit attached and middle housing types. Alternatively, feedback was received to modify the structure of the safe harbor to correct for past underproduction of a variety of housing types, which would create an opposite effect to the previous feedback note, requiring that Cities with the lowest shares of multi-unit attached and middle housing in their housing stock plan for proportionately more of those housing types than Cities with more variety in their existing housing stock. Staff have not pursued either of these revisions at this time, favoring a simpler and universally applied housing type mix, acknowledging the tradeoffs of this approach.</i></p> <p><i>- Feedback was received that a city-size tiering of the safe harbor is not supported by actual housing need for diverse</i></p>



OAR 660-008-0105 – Contextualized Housing Need Safe Harbor	Plain Language Description	DLCD Staff Policy Notes
		<p><i>housing types in cities of all sizes. In order to implement this feedback, one housing type mix safe harbor would be established and universal regardless of city size. Staff are particularly interested in additional feedback on this item.</i></p> <p><i>- Feedback was received to include ADUs as part of the “middle housing” planning category in this safe harbor, but due to SB 1051 (2017) all cities in UGBs must already allow for at least one ADU per detached single-unit home. The purpose of this housing type mix safe harbor is to set minimums for the housing type mixes that have been underproduced and are not already universally required to be allowed in the way that ADUs are. As such, staff have not integrated ADUs as a housing type that can satisfy the housing type category oriented to middle housing.</i></p> <p><i>- Revised safe harbor language to include single room occupancy housing in the safe harbor itself rather than included via a separate rule, formerly subsection (2)(b)</i></p> <p><i>-Revised safe harbor of multi-unit and single room occupancy housing to at least 20+ unit to enable Type A accessibility standards to apply and to acknowledge the similar role that small-scale attached multi-unit housing can have as middle housing types</i></p>



OAR 660-008-0105 – Contextualized Housing Need Safe Harbor	Plain Language Description	DLCD Staff Policy Notes
		<p><i>- Added subsection (3) to further clarify the optional role that the safe harbor plays in the program as well as the obligation for a non-safe harbor housing type mix determination to demonstrate that it is meeting the community's housing need and remedying or mitigating the community's fair housing issues</i></p>



OAR 660-008-01XX – Review of Contextualized Housing Need

OAR 660-008-01XX– Contextualized Housing Need Review	Plain Language Description	DLCD Staff Policy Notes
<p><u>(1) The standard process for completing the Contextualized Housing Need includes:</u></p> <p><u>(a) Submission of the Contextualized Housing Need as a component of the adoption of the Housing Capacity Analysis as provided in OAR 660-008-0135 (3), and</u></p> <p><u>(b) The Department shall review the sufficiency of the Contextualized Housing Need based upon requirements as provided in OAR 660-008-0100 at the time the City adopts its Housing Capacity Analysis as provided in OAR 660-008-0135(3).</u></p> <p><u>(2) A City may opt into an alternate process for completing the Contextualized Housing Need through a segmented Housing Production Strategy review under OAR 660-008-0145 prior to the adoption of a Housing Capacity Analysis and Housing Production Strategy wherein.</u></p> <p><u>(a) The City shall notify the Department of the selection of the segmented Housing Production Strategy review, and</u></p> <p><u>(b) The Department’s decision and the City’s adoption of the Contextualized Housing Need under this subsection (2) is not a land use decision.</u></p>	<p>This is a new rule and provides a process for the review and adoption of the Contextualized Housing Need.</p> <p>(1) The process for including the Contextualized Housing need includes:</p> <p>(a) Submitting as part of the adoption process for the Housing Capacity Analysis, and</p> <p>(b) The Department will review the Contextualized Housing Need based on the requirements outlined in OAR 660-008-0100.</p> <p>(2) To separate the Contextualized Housing Need review and adoption from the Housing Capacity Analysis and the Housing Production Strategy, a City can choose to take a segmented HPS review where the CHN is reviewed by the Department in advance of completion of both the HCA and the HPS.</p> <p>(a) The City must notify the Department that they selected this segmented approach for adopting the CHN, and</p> <p>(b) The Department’s decision on the CHN is not a land use decision and therefore not appealable.</p>	<p><i>- Clarity was needed regarding the completion, review, and acceptance of the Contextualized Housing Need by the Department. In response to varying local conditions and tradeoffs regarding adoption and completion options, staff have proposed two pathways for completion of the Contextualized Housing Need available for use at City preference and discretion. Staff are particularly interested in additional feedback on this item.</i></p>



OAR 660-008-0110 – Allocation of Buildable Land

OAR 660-008-0110 – Allocation of Buildable Land	Plain Language Description	DLCD Staff Policy Notes
<p><i>The following existing rule is currently in OAR 660-008-0010:</i></p> <p>(1) The mix and density of needed housing is determined in the housing needs projection. Sufficient buildable land shall be designated on the comprehensive plan map to satisfy housing needs by type and density range as determined in the housing needs projection. The local buildable lands inventory must document the amount of buildable land in each residential plan designation.</p> <p>(2) For purposes of preparing Housing Capacity Analyses as provided in OAR 660-008-0045, the following provisions apply to local governments that are subject to OAR 660-012-0310(2):</p> <p>(a) Following the initial designation of climate-friendly areas as required in OAR 660-012-0315, local governments shall maintain climate-friendly area zones with sufficient zoned residential building capacity to contain at least 30 percent of current and projected housing needs. However, the local government shall determine housing capacity within the climate-friendly area for the purpose of meeting identified housing needs as required by Goal 10 and this division in a manner consistent with ORS 197.296(5).</p> <p>(b) The local government shall calculate the zoned residential building capacity within climate-friendly areas consistent with the provisions of OAR 660-012-0315(2), or utilizing an alternative methodology as provided in OAR 660-012-0320(10). The local government shall include demonstration of compliance with this requirement in each subsequent Housing Capacity Analysis.</p> <p>(c) The local government shall establish land use requirements in climate-friendly areas as provided in OAR 660-012-0320 for any newly designated climate-friendly area concurrent with or prior to the adoption of a Housing Capacity Analysis.</p> <p>(3) Beginning June 30, 2027:</p> <p>(a) A local government subject to OAR 660-012-0310(2) that has identified a need to expand its urban growth boundary to accommodate</p>	<p>No changes currently proposed</p>	<p><i>This section of rule is under consideration for revision with the Capacity & Urbanization Technical Advisory Committee with a deadline of January 1, 2026 for any new or revised administrative rules. As such, any amendments or additions to this rule will be proposed separately, likely in 2025. Of note, Department staff are reviewing the rules in OAR 660-007 for cohesion with this rule and others here in OAR 660-008.</i></p>



OAR 660-008-0110 – Allocation of Buildable Land	Plain Language Description	DLCD Staff Policy Notes
<p>an identified residential land need shall designate and zone additional climate-friendly area as provided in OAR 660-012-0315 concurrent with expansion of the urban growth boundary.</p> <p>(b) A local government shall designate and zone climate-friendly area of sufficient size to accommodate the number of housing units equivalent to one-half of the number of additional housing units that cannot reasonably be accommodated within the current urban growth boundary.</p> <p>(c) The local government shall calculate the climate-friendly area needed based on zoned residential building capacity as provided in OAR 660-012-0315(2), or utilizing an alternative methodology as provided in OAR 660-012-0320(10), while the local government shall determine housing capacity within the climate-friendly area for the purpose of meeting identified housing needs as required by Goal 10 and this division in a manner consistent with ORS 197.296(5). Identified housing needs that would otherwise necessitate an urban growth boundary expansion shall only be accommodated in climate-friendly areas to the extent that the production of needed housing types within the climate-friendly areas may be anticipated consistent with ORS 197.296(5).</p> <p>(d) The local government may choose to designate a portion of the newly expanded urban growth boundary area as climate-friendly area if the area qualifies for designation as provided in OAR 660-012-0310(2), or may choose to designate additional climate-friendly area in other locations within the urban growth boundary that qualify for designation.</p> <p>(e) The local government may accommodate additional climate-friendly areas within one or more locations within the urban growth boundary. The designation and zoning of additional climate friendly area shall comply with all applicable requirements for climate-friendly areas as provided in OAR 660-012-0310 through OAR 660-012-0325.</p>		



OAR 660-008-0115 – Clear and Objective Approval Standards Required

OAR 660-008-0115 – Clear and Objective Approval Standards Required	Plain Language Description	DLCD Staff Policy Notes
<p><i>The following existing rule is currently in OAR 660-008-0015:</i></p> <p>(1) Except as provided in section (2) of this rule, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of needed housing on buildable land. The standards, conditions and procedures may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.</p> <p>(2) In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in section (1) of this rule, a local government may adopt and apply an optional alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:</p> <p>(a) The applicant retains the option of proceeding under the approval process that meets the requirements of section (1);</p> <p>(b) The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and</p> <p>(c) The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in section (1) of this rule.</p> <p>(3) Subject to section (1), this rule does not infringe on a local government’s prerogative to:(a) Set approval standards under which a particular housing type is permitted outright;(b) Impose special conditions upon approval of a specific development proposal; or</p> <p>(c) Establish approval procedures.</p>	<p>No changes currently proposed</p>	<p><i>This section of rule is not currently under consideration for revision.</i></p>



OAR 660-008-0120 – Specific Plan Designations Required

OAR 660-008-0120 – Specific Plan Designations Required	Plain Language Description	DLCD Staff Policy Notes
<p><i>The following existing rule is currently in OAR 660-008-0020:</i></p> <p>(1) Plan designations that allow or require residential uses shall be assigned to all buildable land. Such designations may allow nonresidential uses as well as residential uses. Such designations may be considered to be "residential plan designations" for the purposes of this division. The plan designations assigned to buildable land shall be specific so as to accommodate the varying housing types and densities identified in the local housing needs projection.</p> <p>(2) A local government may defer the assignment of specific residential plan designations only when the following conditions have been met:</p> <p>(a) Uncertainties concerning the funding, location and timing of public facilities have been identified in the local comprehensive plan;</p> <p>(b) The decision not to assign specific residential plan designations is specifically related to identified public facilities constraints and is so justified in the plan; and</p> <p>(c) The plan includes a time-specific strategy for resolution of identified public facilities uncertainties and a policy commitment to assign specific residential plan designations when identified public facilities uncertainties are resolved.</p>	<p>No changes currently proposed</p>	<p><i>This section of rule falls under the scope of the Capacity & Urbanization Technical Advisory Committee with a deadline of January 1, 2026 for any new or revised administrative rules. As such, any amendments or additions to this rule would be proposed separately, likely in 2025.</i></p>



OAR 660-008-0125 – The Rezoning Process

OAR 660-008-0125 – The Rezoning Process	Plain Language Description	DLCD Staff Policy Notes
<p><i>The following existing rule is currently in OAR 660-008-0025:</i></p> <p>A local government may defer rezoning of land within an urban growth boundary to maximum planned residential density provided that the process for future rezoning is reasonably justified. If such is the case, then:</p> <p>(1) The plan shall contain a justification for the rezoning process and policies which explain how this process will be used to provide for needed housing.</p> <p>(2) Standards and procedures governing the process for future rezoning shall be based on the rezoning justification and policy statement, and must be clear and objective and meet other requirements in OAR 660-008-0115.</p>	<p>No changes currently proposed</p>	<p><i>This section of rule falls under the scope of the Capacity & Urbanization Technical Advisory Committee with a deadline of January 1, 2026 for any new or revised administrative rules. As such, any amendments or additions to this rule would be proposed separately, likely in 2025.</i></p>



OAR 660-008-XXXX – Formerly “Regional Coordination”

OAR 660-008-XXXX – Formerly “Regional Coordination”	Plain Language Description	DLCD Staff Policy Notes
<p><i>The following existing rule which is proposed to be struck is currently in OAR 660-008-0030:</i></p> <p>(1) Each local government shall consider the needs of the relevant region in arriving at a fair allocation of housing types and densities.</p> <p>(2) The local coordination body shall be responsible for ensuring that the regional housing impacts of restrictive or expansive local government programs are considered. The local coordination body shall ensure that needed housing is provided for on a regional basis through coordinated comprehensive plans.</p>	<p>Proposal to strike this existing rule which previously directed regional coordination in determining localized housing need.</p>	<p><i>- Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>



OAR 660-008-XXXX – Formerly “Substantive Standards for Taking a Goal 2, Part II Exception Pursuant to ORS 197.303(3)”

OAR 660-008-XXXX – Formerly “Substantive Standards for Taking a Goal 2, Part II Exception Pursuant to ORS 197.303(3)”	Plain Language Description	DLCD Staff Policy Notes
<p>The following existing rule which is proposed to be struck is currently in OAR 660-008-0035:</p> <p>(1) A local government may satisfy the substantive standards for exceptions contained in Goal 2, Part II, upon a demonstration in the local housing needs projection, supported by compelling reasons and facts, that:</p> <p>(a) The needed housing type is being provided for elsewhere in the region in sufficient numbers to meet regional needs;</p> <p>(b) Sufficient buildable land has been allocated within the local jurisdiction for other types of housing which can meet the need for shelter at the particular price ranges and rent levels that would have been met by the excluded housing type; and</p> <p>(c) The decision to substitute other housing types for the excluded needed housing type furthers the policies and objectives of the local comprehensive plan, and has been coordinated with other affected units of government.</p> <p>(2) The substantive standards listed in section (1) of this rule shall apply to the ORS 197.303(3) exceptions process in lieu of the substantive standards in Goal 2, Part II.</p>	<p>Proposal to strike this existing rule which previously enabled a local government to adopt and apply an exemption to a requirement in state law to apply only ‘clear and objective’ requirements for needed housing, provided that the local government demonstrated certain parameters were met.</p> <p>This process is referred to as a ‘reasons exception’ under Goal 2 and requires findings by a local government that the flexibility is both necessary and will not result in noncompliance with Goal 10.</p>	<p><i>- Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>



OAR 660-008-0130 – Restrictions on Housing Tenure

OAR 660-008-0130 – Restrictions on Housing Tenure	Plain Language Description	DLCD Staff Policy Notes
<p><i>The following existing rule that is revised in this new section is currently in OAR 660-008-0040:</i></p> <p>Any local government that restricts the construction of either rental or owner occupied housing shall include a determination of housing need according to tenure as part of the local housing needs projection.</p>	<p>This rule is proposed to be struck.</p>	<p><i>- While previously amended, staff is now proposing striking this rule section based on lack of use and obsolescence given the prevalence of accommodating tenure need throughout the current and drafted rules for the Housing Production Strategy including the Fair Housing Issue Area specifically regarding tenure and wealth-building housing choice.</i></p>



ORAR 660-008-0135 – Housing Capacity Analysis and Housing Production Strategy Deadlines

ORAR 660-008-0135 – Housing Capacity Analysis and Housing Production Strategy Deadlines	Plain Language Description	DLCD Staff Policy Notes
<p>The following existing rule that is revised in this new section is currently in ORAR 660-008-0045:</p> <p>Cities described in ORS 197.296(2)(a)(B) and (10)(c)(B) <u>197A.270, 197A.280, and 197A.335</u> shall demonstrate sufficient Buildable Lands <u>adopt a Housing Capacity Analysis and adopt a Housing Production Strategy</u> as scheduled by the Commission.</p> <p>(1) The Department shall publish the schedule <u>calendar</u> of Housing Capacity Analyses <u>and Housing Production Strategies</u> deadlines for <u>Cities identified under ORS 197A.270, 197A.280, and 197A.335</u> 197.296(2)(a)(B) or (10)(c)(B) in Exhibit A.</p> <p>(2) The deadline for adoption of a Housing Capacity Analysis <u>and a Housing Production Strategy</u> in a given year is December 31st.</p> <p>(3) A <u>City</u> will be considered to have met its obligation to adopt a Housing Capacity Analysis upon adoption of the Housing Capacity Analysis by ordinance. A subsequent appeal of the Housing Capacity Analysis will not be considered a failure to comply with the deadline provided in Exhibit A provided in section (1).</p> <p><u>(4) A City is considered to have met its obligation to adopt a Housing Production Strategy upon adoption of the Housing Production Strategy.</u></p> <p>(4) Upon adoption of a Housing Capacity Analysis, the deadline for a subsequent Housing Capacity Analysis is as follows:</p> <p>(a) Eight years subsequent for <u>Cities</u> that are not within a metropolitan service district; or</p> <p>(b) Six years subsequent for <u>Cities</u> that are within a metropolitan service district.</p> <p><u>(6) The Housing Production Strategy is due one year after the City's deadline for completing a Housing Capacity Analysis, as prescribed by the Department's schedule of Housing Capacity Analysis and Housing Production Strategy deadlines in Exhibit A.</u></p>	<p>This rule requires cities to demonstrate sufficient buildable lands through the development of a Housing Capacity Analysis (HCA) as scheduled by the Department's Land Conservation and Development Commission.</p> <p>(1) The Department is required to publish a calendar showing the annual deadlines applied to each City for completing their HCA.</p> <p>(2) The deadline to complete an HCA in any given year for a City is December 31st.</p> <p>(3) A City is considered to have met its obligation once it adopts its HCA by ordinance. If the analysis is appealed later, the City is still considered compliant as long as it met the initial deadline.</p> <p>(4) A City is considered to have met its obligation once it adopts its HPS – adoption by ordinance is not required and HPSs are not land use decisions and cannot be appealed.</p> <p>(5) After a City adopts its Housing Capacity Analysis, its next deadline is:</p> <p>(a) Every eight years if the City is outside of a metropolitan service district; or</p> <p>(b) Every six years if the City is within a metropolitan service district.</p>	<p><i>- This rule was only minimally amended to reorient the scheduling that referenced demonstration of sufficient Buildable Lands to the Housing Capacity Analysis requirement in full.</i></p>



OAR 660-008-0135 – Housing Capacity Analysis and Housing Production Strategy Deadlines

Plain Language Description

DLCD Staff Policy Notes

~~(7)~~ If a population estimate developed under ORS 195.033 and OAR 660-032-0020 and OAR 660-032-0030 results in a City qualifying under ORS 197A.270, 197A.280, and 197A.335~~197.296(2)(a)(B) or (10)(c)(B)~~, the City must adopt a Housing Capacity Analysis within two years of its qualification or the interval provided in section (4), whichever is the longer period.

(6) The HPS is due the year following the year in which the HCA is due.

(7) If a City's population growth qualifies as outlined in ORS 195.033, OAR 660-032-0020, and OAR 660-032-0030, it must adopt an HCA within two years or by the usual interval (6 or 8 years), whichever is longer.



OAD 660-008-0140 – Housing Production Strategy Report Structure

OAD 660-008-0140 – Housing Production Strategy Report Structure	Plain Language Description	DLCD Staff 2.0 Policy Notes
<p>The following existing rule that is revised in this new section is currently in OAR 660-008-0050:</p> <p>As provided in ORS 197A.100^{197.290}(2), a City with a population of more than 10,000 people must develop and adopt a Housing Production Strategy Report. <u>The Housing Production Strategy is a comprehensive City-wide action plan encompassing all domains in a City's control to promote housing production, affordability, and choice. As such, interdepartmental collaboration in the development of this plan is necessary. The Housing Production Strategy must</u> that includes a list of specific actions, including the adoption of measures and policies that the City shall undertake to promote <u>the development of Needed Housing to meet Housing Production Targets for the City's 6- or 8-year HPS planning cycle; the development and maintenance of housing that is of diverse housing types, high-quality, affordable, and accessible; housing with access to economic opportunities, and community assets; and Affirmatively Furthering Fair Housing.</u> development within the city to address a housing need identified under ORS 197.296(3) or (10) for the most recent 20-year period described in the city's Housing Capacity Analysis. At a minimum, the Housing Production Strategy this Report must include <u>the Contextualized Housing Need as directed by OAR 660-008-0100 and</u> the following components:</p>	<p>This section of rule describes the basic requirement of City's to produce a Housing Production Strategy with the objectives that are listed in various applicable statutes including Affirmatively Furthering Fair Housing. The entire City is party to this program and a comprehensive effort is necessary in order to accomplish this program.</p>	<p><i>- RAC and TAC discussion on the operationalization of restorative justice as part of DLCD's Racial Equity Framework for Decision-Making coalesced around the HPS framework falling short of true restorative justice. True restorative justice would mean that "impacted communities" would be positioned such that they develop their own actions to address identified harms. There may be legal implications with this and significant challenges with defining what "impacted communities" means, in addition to a substantial shift in the current HPS framework. As such, staff did not include an "impacted communities" definition nor a transfer of policy adoption power to "impacted communities" nor any community members in this second draft rule . However, it should be noted that RAC and TAC feedback did desire reparative justice elements to be included in the HPS framework and to reach toward restorative justice as much as possible which staff agree is possible within the current legal framework of the program and governmental authorities. Those elements are embedded in the HPS program in multiple areas: the Contextualized Housing Need,</i></p>



OAR 660-008-0140 – Housing Production Strategy Report Structure	Plain Language Description	DLCD Staff 2.0 Policy Notes
		<p><i>community engagement, and equity indicators, as examples.</i></p> <p><i>- Refinement made to this introductory section to reflect the statutorily directed principles of promoting housing production, affordability, and choice rather than limiting the directive to “fair and equitable housing outcomes” while still noting the charge to Affirmatively Furthering Fair Housing</i></p>
<p>(1) Contextualized Housing Need — A contextualization and incorporation of information from the most recent Housing Capacity Analysis that describes current and future housing needs in the context of population and market trends.</p> <p>(a) At a minimum, this must include a discussion of:</p> <p>(A) Socio-economic and demographic trends of households living in existing Needed Housing. This must include a disaggregation of households living in existing Needed Housing by race and ethnicity;</p> <p>(B) Measures already adopted by the city to promote the development of Needed Housing;</p> <p>(C) Market conditions affecting the provision of Needed Housing;</p> <p>(D) Existing and expected barriers to the development of Needed Housing;</p> <p>(E) An estimate of the number of people or households experiencing homelessness. Estimates must include, as available, the following data sources:</p> <p>(i) An estimate of regional housing need for people experiencing homelessness provided by the state or regional entity;</p>	<p>See proposed rule OAR 660-008-0100 for adaptation of this section of rule</p>	<p><i>- Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>



OAR 660-008-0140 – Housing Production Strategy Report Structure	Plain Language Description	DLCD Staff 2.0 Policy Notes
<p>(ii) The applicable Housing and Urban Development Point-in-Time count conducted by the Continuum of Care that the city is located within;</p> <p>(iii) The applicable Housing and Urban Development Annual Homelessness Assessment Report; and</p> <p>(iv) The applicable McKinney-Vento Homeless Student Data for all school districts that overlap with the city boundary.</p> <p>(F) Percentage of Rent Burdened Households, as determined in the report described in OAR 813-112-0020(2);</p> <p>(G) Housing tenure, including rental and owner households; and</p> <p>(H) Housing needs for people with disabilities, including hearing, vision, cognitive, ambulatory, self-care difficulty, and independent living as provided in the applicable American Community Survey and other data sets, as available.</p> <p>(b) A city may use the following types and sources of data to further contextualize housing need for the purposes of this section:</p> <p>(A) The percentage of housing stock that is market rate compared to the percentage of housing stock that is subsidized to make it affordable;</p> <p>(B) Units that the city has permitted but which have not yet been produced;</p> <p>(C) Population groups that are not typically accounted for in a Housing Capacity Analysis, including but not limited to college and university students or second homeowners;</p> <p>(D) Redevelopment rates that impact the preservation of existing affordable market-rate units; and</p> <p>(E) Other types and sources of data to refine housing need for those experiencing homelessness, including:</p> <p>(i) Data collected by local Coordinated Care Organizations;</p> <p>(ii) Data collected by community action agencies;</p>		



OAR 660-008-0140 – Housing Production Strategy Report Structure	Plain Language Description	DLCD Staff 2.0 Policy Notes
<p>(iii) The capacity of existing emergency shelters;</p> <p>(iv) Rental and homeowner vacancy rates;</p> <p>(v) Change in gross or net property values or rent over time;</p> <p>(vi) Qualitative data that illustrate specific needs of people experiencing homelessness; and</p> <p>(vii) Other local houseless population datasets</p>		
<p>(21) Engagement – A Housing Production Strategy Report must include a narrative summary of the process by which the City engaged Community Members Consumers of Needed Housing and Producers of Needed Housing, especially with regard to Federal Housing Act protected classes, all state protected classes, and all locally protected classes, state and federal protected classes and a summary of the themes from the engagement feedback and results. A City must work interdepartmentally to the extent possible in developing and implementing its engagement work for the Housing Production Strategy, including but not limited to the planning, permitting, and community development departments. A City must solicit feedback regarding its selection of actions included in its Housing Production Strategy. A City may refer to the Department’s Equitable Engagement Toolkit to employ best practices regarding equitable engagement. To the extent it exists, a City may conduct utilize engagement for a Housing Production Strategy concurrent with from other housing-related planning efforts within the City including, but not limited to, a Housing Capacity Analysis, Consolidated Plans for any of HUD’s Community Planning and Development formula grant programs including, but not limited to, Community Development Block Grant Entitlement Communities, Transportation System Plan updates (OAR 660-012-0120 through OAR 660-012-0135), Climate-Friendly Area Plans (660-012-0135), and public engagement for Severely Rent Burdened Households as described in OAR 813-112-0010. The narrative summary must include: the following elements:</p>	<p>(1) A Housing Production Strategy report must include a summary detailing the City’s engagement process with Community Members and Producers of Needed Housing including a focus on protected classes. The City must work interdepartmentally in order to conduct this work as comprehensively as possible and to gather feedback on the actions proposed and selection for the Housing Production Strategy. Using the Department’s Equitable Engagement Toolkit, the City is encouraged to adopt best practices to ensure equitable engagement and avoid engagement fatigue. Engagement for the Housing Production Strategy can be supported with engagement completed for other housing planning efforts, such as the Consolidated Plans for Community Development Block Grant Entitlement Communities, Climate-Friendly Areas, and engagement for Severely Rent Burdened Households (OAR 813-112-0010), but additional engagement specific to action selection must be conducted. The narrative summary must include:</p>	<ul style="list-style-type: none"> - Replaced “protected classes” to “Federal Housing Act protected classes, all state protected classes, all locally protected classes” to be consistent with the other areas of draft rule that reference this language. - Amended reference to Consolidated Plans to be more inclusive of other HUD programming and not exclusive to CDBG grant program funding. - While the HPS should be an interdepartmental effort, “to the extent possible” was added to recognize that depending on city size, multiple departments may not exist for collaboration on an HPS. - Feedback was received that the Climate Friendly Area Plans equity analysis and engagement citation as well as how this work should be represented in rule was incorrect and so staff have now updated the citation to correct this issue. - Feedback was received questioning the value of engagement for action selection



OAR 660-008-0140 – Housing Production Strategy Report Structure

	Plain Language Description	DLCD Staff 2.0 Policy Notes
<p>(a) A list and description of stakeholders<u>interested parties and community member groups</u> who will be impacted by <u>choices made in the Housing Capacity Analysis and potential actions included in a Housing Production Strategy</u>, stating who was engaged and why, including Consumers<u>Community Members</u> of Needed Housing and Producers of Needed Housing;</p> <p>(b) A summary of feedback received from each stakeholder group<u>engagement effort or event</u>;</p> <p>(c) A description of how the information from stakeholders<u>the major feedback themes from interested parties and community members that influenced the identification of Fair Housing Issues and determination of housing types, characteristics, and locations that are needed in the City. For any major feedback themes engagement feedback received that did not result in the identification of a fair housing issue or a determination of housing types, characteristics, and/or locations needed to remedy or mitigate a fair housing issue, an explanation must be provided detailing why the feedback did not lead to a corresponding action or identification of need. For any major feedback themes which did inform the identification of a fair housing issue or a determination of housing types, characteristics, and/or locations needed to remedy or mitigate a fair housing issue must be attributed accordingly in the description of that action as directed in section (2)</u>; and</p> <p>(d) An evaluation of how to improve engagement practices for future housing engagement efforts conducted by the City<u>, including but not limited to improvements in Affirmatively Furthering Fair Housing through future engagement efforts.</u></p>	<p>(a) a list and description of interested parties and community members engaged, including why they were chosen;</p> <p>(b) a summary of feedback received from each group;</p> <p>(c) an explanation of how feedback influenced specific actions in the Housing Production Strategy and reasons for any feedback not resulting in action, and an evaluation of how to improve future engagement practices, including those for Affirmatively Furthering Fair Housing. This ensures transparency and shows how community input was considered in the planning process; and</p> <p>(d) a self-assessment for improvements to community engagement work in the future.</p> <p>Of note, the Housing Production Action section of rule below requires linking each action selected with feedback received from this equitable engagement such that there is a direct connection and responsiveness between the actions and the feedback received.</p>	<p><i>on the basis that the work of action selection may be too technical for community members to engage with. Given the many voices in communities, including but not limited to community benefit organizations, affordable housing developers, advocates, and community members themselves with varying backgrounds, staff feel that the critical work of action selection requires community engagement. Additionally, actions have varying levels of technicality, and the general concepts of even technical actions can be made more accessible for consideration by various audiences without getting into technical details.</i></p> <p><i>- Clarified (c) to ensure that the accounting for feedback that both influenced and did not influence the development of the HPS is expected at the theme level rather than for every comment made across all engagement efforts – the programmatic intent is for all major feedback themes to be accounted for as either influencing outcomes or not.</i></p>
<p>(23) <u>Strategies</u> <u>Actions</u> to Meet <u>Current and Future Housing Need</u> – A Housing Production Strategy Report must commit to<u>identify</u> a list of specific actions, measures, and policies needed to<u>support the production of Needed Housing in order to meet the City's Housing Production Target with net new units, including the preservation, rehabilitation, and adaptation of existing Needed Housing where appropriate, and to simultaneously Affirmatively Further Fair Housing in</u></p>	<p>(3) A Housing Production Strategy must outline commitments to specific actions - measures, policies, programs, and similar tools - to support Needed Housing, aiming to meet the City's Housing Production Target with net new units, including preserving existing Needed Housing</p>	<p><i>- Added "rehabilitation, and adaptation" to (2) in order to convey the variety of ways that a City can work to promote net new housing units</i></p> <p><i>- Removed the requirement for a month to be listed for the adoption and</i></p>



OAR 660-008-0140 – Housing Production Strategy Report Structure

Plain Language Description

DLCD Staff 2.0 Policy Notes

the existing and new housing stock address housing needs identified in the most recent Housing Capacity Analysis. The strategies proposed by a city Housing Production Strategy must demonstrate that the actions therein collectively meet its 6- or 8-year housing need as established in its Housing Production Target, by affordability bracket, and in the City's identified needed housing types, characteristics, and locations as a result of the Contextualized Housing Need as provided in OAR 660-008-0100 address the next 20-year housing need identified within the most recent Housing Capacity Analysis and contextualized within the Report as provided in section (1). A Housing Production Strategy Report may identify strategies actions including, but not limited to, those listed in the Housing Production Strategy Guidance for Cities published by the Commission under Exhibit B. For each identified Housing Production Strategy action, the Housing Production Strategy Report must include:

(a) A title and description of the Housing Production Strategy action chosen;

(b) The identification number from the Housing Production Strategy Guidance for Cities, if applicable;

(c) An timeline for adoption year for of the Housing Production Strategy action, if applicable;

(d) A year for when the action will be timeline for implementation of the Housing Production Strategy; and

(e) A time frame over which the action is expected to begin meeting housing need;

(f) The action's expected An estimated magnitude of impact on the development of Needed Housing over the 6- or 8-year Housing Production Target horizon; of the Housing Production Strategy, including;

(g) The income bracket/s per ORS 184.453(4) for which the action is expected to produce housing;

where appropriate. This effort must also Affirmatively Further Fair Housing in both existing and new housing stock. The proposed actions must collectively meet the 6- or 8-year Housing Production Target by affordability bracket and produce the identified housing types, characteristics, and locations that are needed from the Contextualized Housing Need Analysis (section 2). The Housing Production Strategy may include template actions from the Housing Production Strategy Guidance for Cities (Exhibit B).

The lists in this section of the rule are designed to clarify the action-by-action analysis and explanations needed to satisfy the statutory requirements of the Housing Production Strategy program, including the Affirmatively Furthering Fair Housing mandate and overall direction that actions should be responsive to need. The structure provides a clear and consolidated framework through which Cities can assess the applicability of their actions and through which the Department can assess the actions for completeness and responsiveness to identified housing need. Please see draft rule for the list of required elements for each action in the Housing Production Strategy.

implementation timeline requirements, leaving only a year to be specified
- Noted that because some actions may not need adoptions and may go straight to implementation that the adoption year is needed only if applicable
- Clarified that the City should describe how the City plans to evaluate the action's success in (j), not the implementation progress on an action.
- Removed (l)(iv) to clarify the benefits and burdens analysis should have particular focus on specific community groups including communities of color, people with disabilities and low-income communities. If cities would like to extend beyond this focus, they are able to; the draft rule as outlined does not prohibit this at all.
- Refined (m) to include not only complementary actions but any other implementation details which enhance benefits or mitigate burdens



OAR 660-008-0140 – Housing Production Strategy Report Structure	Plain Language Description	DLCD Staff 2.0 Policy Notes
<p>(A) The Housing need addressed by the identified Housing Production Strategy by tenure and income<u>wealth-building opportunities expected to be available from the produced housing;</u></p> <p>(B) An estimate of the number of housing units that are anticipated to be created through implementation of the identified Housing Production Strategy;</p> <p>(i) A description of critical steps that the City and other interested parties and partners must take to implement the action;</p> <p>(j) A description of how the City will assess and track the results of measure implementation and progress for the action;</p> <p>(k) The housing need met in terms of:</p> <p>(A) Any Fair Housing Issues the action is expected to mitigate or resolve;</p> <p>(B) The needed housing types, characteristics, and/or locations the actions are expected to produce; and</p> <p>(C) The community feedback the action is responsive to;</p> <p>(G) An analysis of the income and demographic populations that are anticipated to receive benefit or burden from the Housing Production Strategy<u>action</u>, including <u>but not limited to:</u></p> <p>(i) Low-income communities,</p> <p>(ii) Communities of color; and,</p> <p>(iii) People with disabilities; and</p> <p>(iv) Other state and federal p<u>Protected C</u>lasses; and</p> <p>(D) A time frame over which the Housing Production Strategy is expected to impact Needed Housing.</p> <p>(m) The names of any complementary actions in the Housing Production Strategy or other implementation details specifically</p>		



OAR 660-008-0140 – Housing Production Strategy Report Structure	Plain Language Description	DLCD Staff 2.0 Policy Notes
<p><u>intended to pair with this action in order to strengthen needed benefits or mitigate burdens.</u></p>		
<p>(4) Achieving Fair and Equitable Housing Outcomes — A Housing Production Strategy Report must include a narrative summarizing how the selected Housing Production Strategies, in combination with other city actions, will achieve equitable outcomes with regard to the following factors:</p> <p>(a) Location of Housing — How the city is striving to meet statewide greenhouse gas emission reduction goals, established under Executive Order No. 20-04, by creating compact, mixed-use neighborhoods available to people who are members of state and federal protected classes. Within Metro, cities subject to this rule shall describe actions taken by the city to promote the production of regulated affordable units, as defined in ORS 456.586(1)(b); to promote the production of accessible dwelling units; to mitigate or avoid the displacement of members of state and federal protected classes; and to remove barriers and increase housing choice for members of state and federal protected classes within Region 2040 centers. Cities subject to this rule and OAR 660-012-0310(2) shall describe actions taken by the city to promote the production of regulated affordable units, as defined in ORS 456.586(1)(b); to promote the production of accessible dwelling units; to mitigate or avoid the displacement of members of state and federal protected classes; and to remove barriers and increase housing choice for members of state and federal protected classes within climate-friendly areas. An accessible dwelling unit is a dwelling unit constructed to accommodate persons with disabilities, in compliance with the Americans with Disabilities Act and applicable construction requirements in adopted building code <u>comms</u>;</p> <p>(b) Fair Housing — How the city is affirmatively furthering fair housing for all state and federal protected classes. Affirmatively furthering fair housing means addressing disproportionate housing needs, patterns of integration and segregation, racially or ethnically concentrated areas of poverty, and disparities in access to housing opportunity;</p>	<p>Proposal to strike this existing rule which previously oriented the Housing Production Strategy program to achieving fair and equitable housing outcomes because the programmatic functions are served by other areas of rule and statute</p>	<p>- Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</p>



OAR 660-008-0140 – Housing Production Strategy Report Structure	Plain Language Description	DLCD Staff 2.0 Policy Notes
<p>(c) Housing Choice—How the city is facilitating access to housing choice for communities of color, low-income communities, people with disabilities, and other state and federal protected classes. Housing choice includes access to existing or new housing that is located in neighborhoods with high-quality community amenities, schooling, employment and business opportunities, and a healthy and safe environment.</p> <p>(d) Housing options for residents experiencing homelessness—How the city is advocating for and enabling the provision of housing options for residents experiencing homelessness and how the city is partnering with other organizations to promote services that are needed to create permanent supportive housing and other housing options for residents experiencing homelessness;</p> <p>(e) Affordable Homeownership and Affordable Rental Housing—How the city is supporting and creating opportunities to encourage the production of affordable rental housing and the opportunity for wealth creation via homeownership, primarily for state and federal protected classes that have been disproportionately impacted by past housing policies; and</p> <p>(f) Gentrification, Displacement, and Housing stability—How the city is increasing housing stability for residents and mitigating the impacts of gentrification, as well as the economic and physical displacement of existing residents resulting from investment or redevelopment.</p>		
<p>(5) A Housing Production Strategy Report must include the following additional elements:</p> <p>(a) A description of any opportunities, constraints, or negative externalities associated with adoption of the elements of proposed Housing Production Strategies;</p> <p>(b) A description of actions that the city and other stakeholders must take to implement the proposed Housing Production Strategies;</p>	<p>Proposal to strike this existing rule which previously added miscellaneous requirements because the requirements have been consolidated and incorporated into other areas of rule</p>	<p>- Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</p>



**OAR 660-008-0140 – Housing Production Strategy ~~Report~~
Structure**

Plain Language Description

DLCD Staff 2.0 Policy Notes

~~(c) If the Housing Production Strategy Report is the first produced under this division, a description of how the city will measure strategy implementation and progress;~~

~~(d) If the Housing Production Strategy Report is not the first produced under this section, a summary of strategies that the city has previously adopted and implemented, and a reflection on the efficacy of each implemented strategy; and~~

~~(e) A copy of the city's most recently completed survey to meet the requirements of ORS 456.586.~~



OAR 660-008-0145 – Review of Housing Production Strategy Reports

OAR 660-008-0145 – Review of Housing Production Strategy Reports	Plain Language Description	DLCD Staff 2.0 Policy Notes
<p>The following existing rule that is revised in this new section is currently in OAR 660-008-0055:</p> <p>(1) No later than 20 days after a <u>C</u>eity’s adoption or amendment of a Housing Production Strategy Report <u>under ORS 197A.100</u>, a <u>C</u>eity must submit the adopted Report or amended Report <u>Housing Production Strategy</u> to the Department.</p> <p>(2) On the same day the <u>C</u>eity submits notice of the <u>adopted or amended</u> Housing Production Strategy Report or amended Report to the Department, the <u>C</u>eity must provide a notice to persons who participated in the proceedings that led to the adoption of the Housing Production Strategy Report and requested notice in writing.</p> <p>(3) Within ten days of receipt of the submission under section (1), the Department must provide notice to persons described under ORS 197.615 (3).</p> <p>(4) Notices given under sections (2) and (3) must state:</p> <p>(a) How and where materials described under section (5) may be freely obtained;</p> <p>(b) That comments on the Housing Production Strategy Report may be submitted to the Department within 45 days after the Department has received the submission under section (1); and</p> <p>(c) That there is no further right of appeal of the Department’s decision under section (7).</p>	<p>This rule outlines the requirements Cities must follow when submitting their adopted or amended Housing Production Strategy to the Department.</p> <p>(1) Within 20 days of a City’s local adoption of their HPS, a City must submit that locally adopted HPS through the Department’s Housing Portal which is the department’s system.</p> <p>(2) The same day the City submits their Housing Production Strategy to the Department through the Housing Portal, the City must notify all community members and interested parties that participated in the public hearing meetings leading up to the adoption hearing, including providing notification to those that requested notification in writing.</p> <p>(3) Within 10 days of receiving the City’s Housing Production Strategy submission, the Department must notify the public electronically of receipt.</p> <p>(4) The Department’s public notification must include:</p> <p>(a) A link to the submitted Housing Production Strategy</p> <p>(b) An invitation to submit comments on the submitted Housing Production Strategy to the Department within 45 days of the Department’s public notification.</p>	<p><i>- Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>



OAR 660-008-0145 – Review of Housing Production Strategy iesy Reports	Plain Language Description	DLCD Staff 2.0 Policy Notes
	(c) A note stating that the Department's decision on the submitted Housing Production Strategy is unappealable.	
<p>(5) The submission under section (1) must include copies of:</p> <p>(a) The signed decision adopting <u>or amending</u> the Housing Production Strategy Report or amended Report;</p> <p>(b) The text of the Housing Production Strategy Report as provided in OAR 660-008-014050, and any amendments to the most recent Report <u>Housing Production Strategy</u> submitted under section (1); <u>and</u></p> <p>(c) A brief narrative summary of the Housing Production Strategy Report; and</p> <p>(d) The information that the city reviewed and considered under section (6).</p>	<p>This rule outlines the adopted or amended Housing Production Strategy submission requirements. It also includes a new rule that outlines the adopted or amended Housing Production Strategy deadline.</p> <p>(5) Copies of the following must be included in the City's adopted or amended Housing Production Strategy submission:</p> <p>(a) A signed decision document from a City's public body (i.e., City Council resolution),</p> <p>(b) The adopted or amended Housing Production Strategy that was approved by the City's public body, and</p> <p>(c) A brief summary of the Strategy.</p>	<p>- Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</p>
<p>(6) The Department shall review the accuracy and sufficiency of the Housing Production Strategy Report based upon the following:</p> <p>(a) <u>Requirements as provided in OAR 660-008-100:145, and Unmet housing need as described in ORS 197.296(6)</u>;</p> <p>(b) Unmet housing need in proportion to the city's population;</p> <p>(c) Percentage of households identified as severely rent burdened;</p> <p>(d) Recent housing development;</p> <p>(e) Recent adoption of a Housing Production Strategy or implementation of actions therein;</p>	<p>This rule outlines the Department's criteria for Housing Production Strategy review.</p> <p>(a) The department will review the City's Housing Production Strategy based on the requirements outlined in Housing Production Strategy rules of this Division, specifically referring to OAR 660-008-100:145.</p> <p>(b) The department will review the City's Housing Production Strategy based on any other requirements that LCDC deems relevant.</p>	<p>- Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</p>



<p>OAR 660-008-0145 – Review of Housing Production Strategies Reports</p>	<p>Plain Language Description</p>	<p>DLCD Staff 2.0 Policy Notes</p>
<p>(f) The city's response to address the housing needs of those experiencing homelessness;</p> <p>(g) Increased access to housing opportunity including the elimination of barriers to fair and equitable housing options;</p> <p>(h) Other attributes that the Commission considers relevant; and</p> <p>(i) Recent or frequent failure to address the metrics listed in the criteria in this subsection.</p>		
<p>(7) The Department shall, within 120 days after receiving the submission under section (1):</p> <p>(a) Approve the Housing Production Strategy Report;</p> <p>(b) Approve the Housing Production Strategy Report, subject to further review and actions recommended by the Department based on its review under section (6); or</p> <p>(c) Remand the Housing Production Strategy Report for further modification as identified by the Department.</p> <p>(8) A determination by the Department under section (7) is not a land use decision and is final and not subject to appeal.</p> <p>(9) The Department will maintain an annual summary of proposed Housing Production Strategies Actions included in Reports Housing Production Strategies submitted under section (1) and reports submitted under OAR 660-008-0060<u>150</u>.</p>	<p>This rule outlines the Department's timeline for reviewing submitted Housing Production Strategy reports.</p> <p>(7) The Department must make a decision on a submitted Housing Production Strategy within 120 days. Decisions are only as follows:</p> <p>(a) Approve the Housing Production Strategy</p> <p>(b) Approve the Housing Production Strategy with conditions as required by the Department.</p> <p>(c) Remand, or in other words reject, the Housing Production Strategy for further modifications as required by the Department.</p> <p>(8) A decision by the Department as applied under section 7 is final, cannot be appealed, and is not considered a land use decision.</p> <p>(9) The Department is required to develop an annual summary of all the actions submitted in all the Housing Production</p>	<p>- Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</p>



OAR 660-008-0145 – Review of Housing Production Strategy
Reports

Plain Language Description

DLCD Staff 2.0 Policy Notes

Strategy reports that are submitted, including actions outlined as part of the mid-point reports required under OAR 660-008-0150.



OAR 660-008-0150 – Midpoint Reporting on Housing Production Strategy Implementation

OAR 660-008-0150 – Midpoint Reporting on Housing Production Strategy Implementation	Plain Language Description	DLCD Staff 2.0 Policy Notes
<p>The following existing rule that is revised in this new section is currently in OAR 660-008-0060:</p> <p>(1) Cities required to adopt a Housing Production Strategy Report under ORS 197.290(1), must submit a narrative-Mmidpoint Report to the Department for review and comment based on the following schedule:</p> <p>(a) For Ceities that are within a metropolitan service district boundary, no later than December 31st three years after the Ceity adopted a Housing Production Strategy-Report; or</p> <p>(b) For Ceities that are not within a metropolitan service district boundary, no later than December 31st four years after the Ceity adopted a Housing Production Strategy-Report.</p> <p>(2) The narrative-Mmidpoint Report a Ceity submits under section (1) must include the following:</p> <p>(a) A summary of the actions already taken by the Ceity to implement the StrategiesActions to Meet Current and Future Housing Need adopted in the Ceity's most recent Housing Production Strategy-Report. If the Ceity has not implemented StrategiesActions to Meet Current and Future Housing Need on the schedule most recently adopted or amended in their most recent Housing Production Strategy Report, the Ceity must provide an explanation of the circumstances or factors that posed a barrier to implementation and a replacement actionplan for addressing the Fair Housing Issue/s and identified needed housing types, characteristics, and locations-need that the strategyaction intended to resolve or meet, respectively addressed;</p> <p>(b) A reflection of the relative-efficacy of implemented StrategiesActions to Meet Current and Future Housing Need adopted in the Ceity's most recent Housing Production Strategy Report in producing net new needed housing types, characteristics, and locations and in remedying or mitigating the Fair Housing Issue/s the action was intended to respond to. This reflection must include any changes to housing</p>	<p>(1) This rule directs the midpoint reporting requirements and Department review regarding the Housing Production Strategy's implementation. The purpose of the midpoint report and review is for both the City and the Department to assess the progress and implementation of the actions in the Housing Production Strategy according to the adoption and implementation timeline of each action. It also identifies the deadlines for these midpoint reports relative to the 6- or 8-year Housing Production Strategy cycle that a City is on such that:</p> <p>(a) Cities in the Metro area must submit their reports in the third year after Housing Production Strategy adoption, and</p> <p>(b) Cities not within the Metro area must submit their reports in the fourth year after Housing Production Strategy adoption.</p> <p>(2) The Midpoint Report is comprised of:</p> <p>(a) A review of the actions the City has taken since adoption of the Housing Production Strategy. This includes, in the event that a City has not stayed on track with any given action, an explanation and a replacement action that serves the need the original action intended to serve will be necessary if the City can no longer pursue the original action, and</p>	<p><i>- In response to interested party feedback and one of the rulemaking principles regarding clear integration of the Department's Transportation Planning Rules with these Division 8 rules, review of efficacy of actions taken in response to obligations regarding Climate-Friendly Areas has been added to the Midpoint Report for Cities where those rules are applicable</i></p>



OAR 660-008-0150 – Midpoint Reporting on Housing Production Strategy Implementation

Plain Language Description

DLCD Staff 2.0 Policy Notes

production and outcomes since the adoption of the Housing Production Strategy as well as any considerations about actions that may have precipitated those changes, including a review of:~~;~~and

(i) The Housing Production Dashboard,

(ii) The Housing Equity Indicators, and

(iii) For cities subject to OAR 660-012-0315(1) or jurisdictions within Metro with Region 2040 centers as defined in OAR 660-012-0005(24), housing developed in compact, mixed-use areas as provided in OAR 660-012-0905.

~~(c) A reflection of the actions taken in response to the factors identified in OAR 660-008-0050(4).~~

(3) Upon submittal of the ~~narrative~~Midpoint Rreport developed under section (1), the Department will review the report for consistency with the Housing Production Strategy ~~Report~~ approved under criteria provided in OAR 660-008-0055145(6).~~The Department may also consider reporting under ORS 456.586(4) as part of this review.~~

(4) Within ten days of receipt of the submission under section (1), the Department must provide notice to persons described under ORS 197.615 (3).

(5) The Department will issue Midpoint review letters by July 1 of the year following the midpoint report deadline. Should the Department find the ~~narrative~~Midpoint Rreport submitted under section (1) does not substantially comply with the criteria in OAR 660-008-0055145(~~36~~), the Department may take action identified in OAR 660-008-~~00790~~x15.

(b) A reflection of how well the implemented actions are meeting the City's housing need, and in particular the needed housing types, characteristics, and locations to mitigate or remedy fair housing issues in the community. This reflection is informed in part by:

(i) the Housing Production Dashboard,

(ii) the Equity Indicators, and

(iii) the reporting regarding housing production in Climate-Friendly Areas for Cities subject to those requirements.

(3) The Department will review the midpoint report for consistency with the Housing Production Strategy and programmatic goals and priorities.

(4) The Department will send out notice to the interested parties as defined by the Post-Acknowledgment Plan Amendment system, which includes the option for opt-in notification for any interested party.

(5) The Department will issue review letters regarding all Cities whose midpoint reports were due by July 1st of the following year. These review letters may include referral into the Housing Acceleration program.



OAR 660-008-XXXX – Placeholder for “Housing Coordination Strategy”

OAR 660-008-XXXX – Placeholder for “Housing Coordination Strategy”	Plain Language Description	DLCD Staff Policy Notes
-	-	<i>- ORS 197A.365(2) notes that “Regional governments other than Metro, including counties or intergovernmental entities described under ORS 190.003 to 190.130, may adopt a housing coordination strategy as provided in this section.” Staff have determined that writing rules to operationalize ORS 197A.365 and the Housing Coordination Strategy outside of what is already provided in statute will be considered for a potential distinct rulemaking effort in the future.</i>



Housing Acceleration

OAR 660-008-0x00 - Purpose

OAR 660-008-0x00 - Purpose	Plain Language Description	DLCD Staff Policy Notes
<p><u>In addition to the purpose statement described in OAR 660-008-0000, OAR 660-008-0x00 to OAR 660-008-0x35 are intended to operationalize the housing acceleration program under ORS 197A.130 and provide a clear and consistent framework by which cities comply with Goal 10 and take action to address identified barriers to housing production, affordability, and choice.</u></p>	<p>This purpose statement notes that the following rules are intended to operationalize the housing acceleration program, which is a process established by the Housing Acceleration statute - ORS 197A.130.</p> <p><i>Summary of edits:</i></p> <ul style="list-style-type: none"> • <i>Provided additional flexibility in the referral process to enable cities to change actions to address an identified need in an HPS</i> • <i>Removed the 'best practice policy' safe harbor against referral</i> • <i>Reinforced the connection between the audit process considerations and affirmatively furthering fair housing in the HPS</i> • <i>Reinforced considerations of DLCD and city staff capacity and resources to undertake actions in the acceleration program, including building city capacity where it's identified as a barrier</i> • <i>Ensured the audit explicitly considers engagement and actions already included in the adopted HPS</i> 	<p><i>Note: New acceleration rules utilize 'OAR 660-008-0x00' to function as a citation placeholder. The final rule will be assigned a specific number - the intent of the placeholder is to enable cross-referencing and citations between rules and will be replaced in the future.</i></p>



ORAR 660-008-0x10 - Referral for Non-Compliance in Adoption of Housing Capacity Analysis and Housing Production Strategy

ORAR 660-008-0x10 - Referral for Non-Compliance in Adoption of Housing Capacity Analysis and Housing Production Strategy	Plain Language Description	DLCD Staff Policy Notes
<p><u>A city is required to adopt a Housing Capacity Analysis and Housing Production Strategy under OAR 660-008-0135. The Department is required to annually refer each city that has failed to adopt a Housing Production Strategy under ORS 197A.130 (3)(b). To minimize and remedy delinquency in completing these requirements by the prescribed deadlines, the Department must refer a city for non-compliance in the adoption of a Housing Capacity Analysis or Housing Production Strategy via the following provisions:</u></p>	<p><u>ORS 197A.130 (3)(b)</u> requires DLCD to refer cities that fail to adopt an HPS by the statutory deadline.</p> <p>This rule replaces an existing rule (<u>OAR 660-008-0065</u>) on the adoption of Goal 10 requirements (HCAs and HPSs), to align with the direction under ORS 197A.130 for DLCD to refer cities that fail to adopt by the statutory deadline. The rule has three components:</p>	<p><i>Staff did not make any amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>
<p><u>(1) If a city determines that it will be unable to adopt a Housing Capacity Analysis, or Housing Production Strategy Report, or Midpoint Report by the prescribed deadline, the city may request that the Department provide a time extension for good cause. The city must notify the Department of the expected delinquency at least 60 days before the applicable deadline for a Housing Capacity Analysis or Housing Production Strategy. In response, the Department may take any of the following actions:</u></p> <p><u>(a) For a Housing Capacity Analysis, provide written authorization for the city to adopt concurrently with a Housing Production Strategy by the deadline prescribed under ORS 197A.100 (1);</u></p> <p><u>(b) Recommend to the Land Conservation and Development Commission to amend a deadline for a Housing Capacity Analysis or Housing Production Strategy under OAR 660-008-0135;</u></p> <p><u>(c) Review components of a Housing Capacity Analysis, response to an identified deficiency, or Housing Production Strategy under OAR 660-025-0185; or</u></p> <p><u>(d) Within 90 days, enter into a voluntary agreement to remedy the delinquency outlining specific actions, timelines, and resources</u></p>	<p>The rule first provides DLCD and cities a few voluntary options before referral to accommodate local needs, while still necessitating adoption as required by law. All four of these options are tools that DLCD currently utilizes to accommodate varying city circumstances.</p> <p><u>ADDED: Midpoint Report called out separately as a required document whose deadline may be extended.</u></p> <p>a. Enabling the city to push the HCA deadline back one year to be adopted concurrently with an HPS.</p> <p>b. Requesting that DLCD recommend updating a city's deadline at LCDC's regular Goal 10 schedule update.</p> <p>c. Enabling the sequential UGB process, which enables a city to adopt an HCA, then adopt the components of a UGB</p>	<p><i>Clarified to include a direct reference to the Midpoint Report.</i></p>



OAR 660-008-0x10 - Referral for Non-Compliance in Adoption of Housing Capacity Analysis and Housing Production Strategy	Plain Language Description	DLCD Staff Policy Notes
<p><u>necessary to adopt a Housing Capacity Analysis or Housing Production Strategy.</u></p>	<p>amendment via a DLCD-approved work plan.</p> <p>d. Entering into a voluntary agreement with DLCD to adopt an HCA or HPS. To avoid delay, this provision has a 90-day timeframe.</p>	
<p><u>(2) If a city has not adopted a Housing Capacity Analysis or Housing Production Strategy by the prescribed deadline, received a time extension for good cause under subsection (1), nor fulfilled the actions and deadlines of a work plan or agreement under subsection (1), the Department must refer the city to the housing acceleration program.</u></p>	<p>If a city does not adopt Goal 10 requirements by the statutory deadline and has not pursued one of the four options above (or further failed to adopt the HCA or HPS under one the options above), DLCD is required to refer the city to the housing acceleration program.</p>	<p><i>Staff did not make any amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>
<p><u>(3) For cities referred under subsection (2), the Department must conduct an audit under OAR 660-008-0x25 and enter into a housing acceleration agreement under OAR 660-008-0x30 focused only on the local barriers to the adoption of a Housing Capacity Analysis or Housing Production Strategy and all supporting documents.</u> including specified technical or financial assistance provided by the Department needed to overcome identified barriers to adoption.</p>	<p>For these types of referrals, the focus of the audit and agreement is on adoption of the HPS.</p> <p><u>Edits to clarify focus on HPS adoption, with the HCA being a supporting document necessary for the HPS. Technical assistance and funding are still provided in OAR 660-008-0x30.</u></p> <p><i>Note: Later on, the acceleration agreement in OAR 660-008-0x30 specifies the actions and timelines that a city must take to comply with state law, which in this case would be adoption of Goal 10 documents. If the city does not meet these timelines, DLCD then must move to the enforcement track outlined in OAR 660-008-0x35.</i></p>	<p><i>Revised to a) simplify provision and b) more accurately reflect the nature of the Goal 10 elements under review.</i></p>



OAR 660-008-0x15 - Referral for Non-Compliance in Undertaking Actions in a Housing Production Strategy

OAR 660-008-0x15 - Referral for Non-Compliance in Undertaking Actions in a Housing Production Strategy	Plain Language Description	DLCD Staff Policy Notes
<p>A city is required to adopt-undertake actions in a Housing Production Strategy by the deadline under ORS 197A.100 (4). The Department is required to annually refer each city in its midpoint that has not taken failed to undertake actions in its Housing Production Strategy under ORS 197A.130 (3)(c). To minimize and remedy delinquency in undertaking actions identified in a Housing Production Strategy, and-or to identify proportionate alternative actions to address a housing need in lieu of an HPS action, the Department must refer a city for non-compliance in undertaking an HPS action via the following provisions:</p>	<p><u>Minor clarifying edits. Does not change function.</u></p> <p>Similar to HPS adoption, ORS 197A.130 (3)(c) requires DLCD to refer cities that fail to undertake an HPS action by the statutory deadline. This rule also replaces an existing rule (OAR 660-008-0070) on the implementation of actions within a Housing Production Strategy. Under statute, cities are required to specify timelines by which they implement actions within an HPS. The rule has six components:</p>	<p>Clarifying language edits only.</p>
<p>(1) If a city determines that it will be unable to undertake-implement an action identified in a Housing Production Strategy by the prescribed date described deadline under OAR 660-008-0140(2)(d), the city may request that the Department provide a time extension for good cause. The city must notify the Department of the expected delinquency at least 60 days before the midpoint report under OAR 660-008-0150. In response, the Department may take any of the following actions:</p> <p>(a) Provide written authorization for a city to submit an amended Housing Production Strategy with: a revised deadline. The revised deadline may not extend beyond the city's subsequent HPS deadline; or</p> <p>(A) A revised deadline-date by which a city completes-implements the identified action. The revised deadline may not extend beyond the city's subsequent Housing Production Strategy deadline under OAR 660-008-0135(6);</p> <p>(B) One or more alternative actions in lieu of an action or actions included in the original Housing Production Strategy. The alternative</p>	<p>The rule first provides DLCD and cities two voluntary options before referral to accommodate local needs, while ensuring that actions within an HPS are implemented. The two options provided are currently options under existing rule but provide greater clarity on timelines that the original rule did not contain.</p> <p>a. With written confirmation from DLCD, the city can amend its HPS to:</p> <p>A. Revise the deadline of the action</p> <p><u>Added: B. Revise the action, provided the new action addresses the identified need</u></p> <p>b. DLCD and the city can enter into a voluntary agreement to undertake actions in an HPS. To avoid delay, this provision</p>	<p><i>Revised to include subsection B: A new addition in the second draft enables cities to replace one or more action in an HPS with an alternative action or actions, provided the identified need is addressed. This is intended to provide additional flexibility to cities to identify a 'Plan B' should a city decide not to undertake the original action.</i></p> <p><i>This edit is also intended to complement corollary edits in the HPS rules that further encourage exploratory work as part of action implementation. Should the exploratory work result in no action, the action can be replaced, provided the identified need is still being addressed.</i></p>



OAR 660-008-0x15 - Referral for Non-Compliance in Undertaking Actions in a Housing Production Strategy	Plain Language Description	DLCD Staff Policy Notes
<p><u>action or actions must address the same identified housing need as the removed action; or</u></p> <p><u>(b) Within 90 days, enter into a voluntary agreement to remedy the delinquency outlining specific actions, timelines, and resources necessary to undertake an HPS action.</u></p>	<p>has a 90-day timeframe to enter an agreement.</p>	
<p><u>(2) If a city has not undertaken an HPS action by the prescribed date described under OAR 660-008-0140(2)(d) deadline, received an extension for good cause under subsection (1), or fulfilled the actions and deadlines of a work plan or agreement under subsection (1), the Department must refer the city to the housing acceleration program at the- its Midpoint report under OAR 660-008-0150. The Department will evaluate all actions included in an adopted Housing Production Strategy from the last Midpoint Rreport under OAR 660-008-0150.</u></p>	<p>If a city fails to undertake an action by the deadline in an adopted HPS and has not pursued one of the two options above (or further failed to undertake action under one of the options above), DLCD is required to refer the city to the housing acceleration program at the midpoint report and considers all of the HPS actions since the last midpoint report.</p> <p><i>Note: the 'midpoint' refers to a check in at the middle of the HPS cycle outlined in OAR 660-008-0150, which is a six-year cycle for Metro cities and eight-year cycle for non-Metro cities. Many housing acceleration provisions are required to occur at this check-in under statute.</i></p>	<p><i>Clarifying language edits and alignment, and added reference.</i></p>
<p><u>(3) For cities referred under subsection (2), the Department must conduct an audit under OAR 660-008-0x25 focused only on:</u></p> <p><u>(a) The action or actions that the city has failed to undertake;</u></p> <p><u>(b) The housing needs addressed by the action or actions;</u></p> <p><u>(c) Other actions taken by the city to address the needs; and</u></p> <p><u>(d) Any additional proportionate actions that may be necessary to address the needs, in lieu of the action or actions in subsection (3)(a).</u></p>	<p>For these types of referrals, the focus of the audit and agreement is on the action(s) that have not been undertaken. The audit considers other actions the city has taken and whether there is an outstanding housing need that requires action to address.</p>	<p><i>Staff did not make any amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>



OAR 660-008-0x15 - Referral for Non-Compliance in Undertaking Actions in a Housing Production Strategy	Plain Language Description	DLCD Staff Policy Notes
<p><u>(4) A housing acceleration agreement developed under OAR 660-008-0x30 to address failure of a city to undertake an action may only include needed proportionate actions necessary to address an outstanding housing need resulting from the failure to undertake an action or actions under this rule.</u></p>	<p>The agreement is focused on taking action necessary to address an outstanding housing need that the original action would have addressed.</p>	
<p><u>(5) In submitting materials to DLCD under OAR 660-008-0x25(2), a city may submit the following to DLCD for consideration in the audit:</u></p> <p><u>(a) Any specific actions the city has taken to address the need in lieu of the action or actions proposed in the HPS; and</u></p> <p><u>(b) Any alternative actions the city could take to proportionately address the need.</u></p>	<p><u>If a city has not undertaken an action in it's HPS, this provision allows a path for cities to pre-emptively consider and propose alternative pathways to address an identified housing need.</u></p> <p><u>EDIT: Created new subsection to streamline references.</u></p>	<p><i>New provision and subsection: Acknowledges that cities very well may have to pivot if a proposed action is deemed infeasible and provides an opportunity to prepare for such an eventuality. The intention is to support city exploration of ambitious/creative solutions and allowing an alternative action or actions, including actions already in the HPS, if the original action doesn't work out.</i></p>
<p><u>(65) If a city is also referred under OAR 660-008-0x20, the Department must consolidate the audit and agreement under subsection (3) into a single process, consistent with the deadlines under ORS 197A.130.</u></p>	<p>DLCD must consolidate these referrals with performance-based referrals, which also occur at the mid-point.</p> <p><i>Note: Similar to HPS adoption, the acceleration agreement in OAR 660-008-0x30 specifies the actions and timelines that a city must take to comply with state law. If the city does not meet these timelines, DLCD then must move to the enforcement track outlined in OAR 660-008-0x35.</i></p>	<p><i>Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>



OAR 660-008-0x20 - Referral based on Performance at the Housing Production Strategy Midpoint Report

OAR 660-008-0x20 – Referral based on Performance at the Housing Production Strategy	Plain Language Description	DLCD Staff Policy Notes
<p>The Department is required to annually refer the lowest performing cities, if any, at the midpoint report under OAR 660-008-0150. To provide a consistent and predictable framework by which the Department dedicates staff time and resources to implementing this section, the Department must refer the lowest performing city or cities, if any, via the following process:</p> <p><u>The Department is required to determine the lowest performing cities, if any, on an annual basis. To provide a consistent and predictable framework by which the Department dedicates staff time and resources to implementing this section, the Department must refer any lowest performing city via the following process:</u></p>	<p><u>EDIT: Clarifies language</u></p> <p>A key provision of ORS 197A.130 requires DLCD to refer cities that are underperforming on their housing production targets, relative to the region and market peers. This rule sets out a framework by which DLCD determines its capacity to conduct both standard and comprehensive audits, determines the eligibility of cities for referral based on their progress towards housing production targets on OHCS' housing production dashboard, then prioritizes referral of cities up to DLCD's capacity. The rule has five components:</p>	<p><i>Clarifying language edits. Does not change function.</i></p>
<p><u>(1) The Department must annually determine the maximum number of both standard and comprehensive audits completed under this rule within a calendar year, in consideration of the following factors:</u></p> <p><u>(a) The capacity of Department staff to conduct audits under OAR 660-008-0x25, develop housing acceleration agreements under OAR 660-008-0x30, and support local implementation of housing acceleration agreements as specified in ORS 197A.130 (7):</u></p> <p><u>(b) The number of Housing Capacity Analyses due under OAR 660-008-0135(1):</u></p> <p><u>(c) The number of Housing Production Strategies due under OAR 660-008-0135</u></p> <p><u>(d) The number of Midpoint Reports due under OAR 660-008-0150(1)</u></p> <p><u>(e) The number of referrals related to the implementation of Housing Production Strategies made under OAR 660-008-0x10 to OAR 660-008-0x15, including its impact on OAR 660-008-0x20 subsection (1)(a);</u></p>	<p><u>EDIT: Identifies additional specific considerations that will guide DLCD determination of capacity.</u></p> <p>1. DLCD annually must determine the number of standard and comprehensive audits conducted in a calendar year, considering:</p> <p>a. DLCD staff capacity to conduct audits, develop agreements, and support local implementation</p> <p><u>b. Anticipated Housing Capacity Analyses for adoption/review by DLCD</u></p> <p><u>c. Anticipated Housing Production Strategies for adoption/review by DLCD</u></p> <p><u>d. Anticipated Midpoint report reviews</u></p>	<p><i>Ensures that DLCD is enabled to consider all elements of required housing planning review to assess capacity for audits.</i></p>



OAR 660-008-0x20 – Referral based on Performance at the Housing Production Strategy	Plain Language Description	DLCD Staff Policy Notes
<p><u>(ef) The availability of funding to support the implementation of actions identified in a housing acceleration agreement developed in response to an audit;</u></p> <p><u>(dg) Whether the Department or cities with a population of 10,000 or greater are subject to separate housing-related legislation, administrative rule, or orders that obligate capacity and funding for implementation, including but not limited to rulemaking or local comprehensive plan or development code amendments; and</u></p> <p><u>(eh) For audits requesting concurrent review under ORS 197A.205, the capacity of the Housing and Community Services Department to concurrently participate in and support audits.</u></p> <p><u>(A) The Department must consult with the Housing and Community Services Department in determining capacity under this section.</u></p>	<p>e. Any referrals made for failure to adopt HPS or actions which impact DLCD staff capacity.</p> <p>f. Funding availability to support local implementation of housing acceleration agreements</p> <p>g. Whether cities and DLCD must implement a housing-related order, legislation, or rule that requires staff capacity and funding to implement</p> <p>h. OHCS staff capacity for audits requesting their concurrent review. DLCD must consult with OHCS for this.</p>	
<p><u>(2) The Department must annually determine which cities, if any, are eligible for referral under this section. Eligible cities must meet the following criteria:</u></p> <p><u>(a) The city was required to submit a Midpoint Report under OAR 660-008-0150 -and</u></p> <p><u>(b) The city is underperforming on its total housing production target or its housing production target for household incomes at or below 80% median-area median family income, which includes:</u></p> <p><u>(A) The city is not meeting its total housing production target and is performing below the 50th percentile in comparison to the region or market peers, as determined by the housing production dashboard under ORS 456.601; or</u></p> <p><u>(B) The city is not meeting its housing production target for incomes at or below 80% median-area median family income and is performing below the 50th percentile in comparison to the region or market peers, as determined by the housing production dashboard under ORS 456.601.</u></p>	<p>To make a referral, DLCD first determines all cities that are eligible for referral at the HPS mid-point. To be eligible, a city has to be:</p> <p>a. At the midpoint report, and</p> <p>b. Underperforming on their total production target or affordable production target at or below 80% <u>area median median family</u> income, which means:</p> <p>A, Total production - the city is not meeting the target and is performing below the 50th percentile in comparison to the region or market peers, or</p> <p>B, Affordable production (at/below 80% <u>MFIAMI</u>) - the city is not meeting the target and is performing below the 50th percentile in comparison to the region or market peers</p>	<p><i>Language edits for consistency</i></p>



OAR 660-008-0x20 – Referral based on Performance at the Housing Production Strategy	Plain Language Description	DLCD Staff Policy Notes
<p><u>(3) Among eligible cities, the Department must remove from consideration any city meeting at least one of the following mitigative criteria:</u></p> <p><u>(a) The city is demonstrably increasing the rate of total production and production of housing affordable to households earning at or below 80% median family income, relative to the region and market peers, as determined by the housing production dashboard under ORS 456.601;</u></p> <p><u>(b) The city had been referred under this section at the previous midpoint report under OAR 660-008-0150; or</u></p> <p><u>(c) The city has adopted best practice policies that demonstrably increase housing production affordability and choice under OAR 660-008-XXXX;</u></p>	<p>After determining eligible cities, DLCD then removes cities from consideration if they meet one or more of the following criteria:</p> <ul style="list-style-type: none"> a. The city is accelerating production relative to the region and market peers b. The city had been referred for underperformance at the previous midpoint report. <p>Removal: c. The city adopted best practice policies</p> <p><i>Note: these adoption-ready policies would need to be developed and adopted into rule if this provision is kept. Currently, the reference does not point to an existing or proposed rule.</i></p>	<p><i>Feedback from the RAC and both NAP and HATAC suggest that adoption of best practice policies should not serve as a functional safe harbor against referral.</i></p>
<p><u>(4) Among eligible cities determined under subsection (2) and (3), the Department must prioritize the referral of cities up to the maximum number of audits determined under subsection (1), based on the following priority considerations:</u></p> <p><u>(a) Severity of underproduction of total housing units, in comparison to the region and market peers as determined by the housing production dashboard under ORS 456.601;</u></p> <p><u>(b) Severity of underproduction of housing affordable to households earning at or below 80% median family income, in comparison to the region and market peers as determined by the housing production dashboard under ORS 456.601; and</u></p> <p><u>(c) Housing equity indicators produced under ORS 456.602 as they relate to fair housing issue areas as specified in OAR 660-008-0100.</u></p>	<p>For the remaining eligible cities, DLCD then actually refers cities up to the maximum set by the agency above. DLCD prioritizes the following in a referral:</p> <ul style="list-style-type: none"> a. Severity of total underproduction b. Severity of affordable underproduction c. Housing equity as it relates to the fair housing issues (developed by the NAPATAC – see OAR 660-008-XXXX). 	<p><i>Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>



OAR 660-008-0x20 – Referral based on Performance at the Housing Production Strategy	Plain Language Description	DLCD Staff Policy Notes
<p><u>(5) The Department shall prioritize comprehensive audits where the priority considerations in subsection (4) indicate a prospective need for a contextual audit under OAR 660-008-0x25 or coordinated action from multiple public bodies, including but not limited to:</u></p> <p><u>(a) Removing barriers to the development of housing affordable to households earning at or below 80% median family income;</u></p> <p><u>(A) For referrals under this subsection, the Department must request concurrent review by the Housing and Community Services Department.</u></p> <p><u>(B) Nothing in this subsection prohibits the Department from coordinating with the Housing and Community Services Department for any referral.</u></p> <p><u>(b) Addressing or improving fair and equitable housing outcomes.</u></p>	<p>DLCD must prioritize comprehensive audits for referrals that need contextual review or coordinated action from multiple entities, including affordability and fair and equitable housing outcomes. This includes a requirement for DLCD to request concurrent OHCS review for comprehensive audits.</p>	
<p><u>(6) The Department may refer less than the maximum number of audits determined under subsection (1) when the number of eligible cities determined under subsections (2) and (3) are-is less than the maximum determined under subsection (1).</u></p>	<p>DLCD may refer less than the maximum when the number of eligible cities is less than the maximum. This recognizes that there will not be an even distribution of cities eligible for referral every year.</p>	<p><i>Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>



OAR 660-008-0x25 - Department Audit for Cities Referred into the Housing Acceleration Program

OAR 660-008-0x25 - Department Audit for Cities Referred into the Housing Acceleration Program	Plain Language Description	DLCD Staff Policy Notes
<p><u>For cities referred to the housing acceleration program under ORS 197A.130 (3), within six months of issuance of public notice of referral under subsection (1), the Department must, in cooperation with the city, complete an audit of specific housing barriers.</u></p>	<p>Once a city is referred into the housing acceleration program, DLCD is required to complete an audit within six months that identifies specific barriers to housing production, affordability, and choice under ORS 197A.130 (4).</p> <p>This rule sets out the process, inputs, and outputs of an audit. This includes an initial fact-finding, then a public comment/feedback period. When the audit is complete, the rule also specifies what information the final audit includes. In addition to mandatory audits, the rule enables cities to optionally request a non-binding DLCD audit. The rule has eight components:</p>	<p><i>Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>
<p><u>(1) The Department must provide public notice of referral for each city referred under OAR 660-008-0x10 to OAR 660-008-0x20, to notice recipients under OAR 660-008-0145, and to affected public bodies by July 1 of each calendar year. The notice must include:</u></p> <p><u>(a) Findings documenting the basis of referral for each city referred into the program, including one or more of the following:</u></p> <p><u>(A) Failure to adopt a Housing Capacity Analysis, or Housing Production Strategy, or Midpoint Report as provided under OAR 660-008-0x10;</u></p> <p><u>(B) Failure to undertake an action or actions in an adopted Housing Production Strategy as provided under OAR 660-008-0x15;</u></p> <p><u>(C) Referral by the Land Conservation and Development Commission under ORS 197A.130 (3)(d); or</u></p>	<p>DLCD will publish notice of referral on July 1 of each calendar year to the referred cities, HPS notice recipients, and affected public bodies. The notice must include:</p> <p>a. Staff findings documenting the basis for referral, which include the four statutory pathways by which a city is referred:</p> <p>A. Failure to adopt an HCA/HPS by the statutory deadline</p> <p>B. Failure to undertake an action or actions at the HPS mid-point</p> <p>C. Referral by an LCDC enforcement order (<i>note: DLCD does not propose a</i></p>	<p><i>Revised (A) to specifically include the midpoint report as a required element of the HPS program</i></p>



OAR 660-008-0x25 - Department Audit for Cities Referred into the Housing Acceleration Program	Plain Language Description	DLCD Staff Policy Notes
<p><u>(D) Referral based on city performance as provided under OAR 660-008-0x20.</u></p> <p><u>(b) A description of the housing acceleration program and procedures outlined in this rule;</u></p> <p><u>(c) Any required actions or materials that a referred city must complete or submit to the department under subsection (2) and how and where these materials may be freely obtained by the public;</u></p> <p><u>(d) That public comment may be submitted to the Department within 45 days of notice provided under subsection (3); and</u></p> <p><u>(e) That actions taken by the city or the Department under the housing acceleration program are not land use decisions and are not subject to appeal or review.</u></p>	<p><i>rule on this referral pathway. LCDC would provide direction in the order)</i></p> <p>D. A performance-based referral at the HPS midpoint</p> <p>b. A description of the housing acceleration program and process</p> <p>c. A description of the required actions or materials a city must complete for the audit (see below)</p> <p>d. That opportunity for public comment will be provided (see below)</p> <p>e. That actions taken under this rule are not land use decisions or subject to appeal or review (<i>note: this is a provision in ORS 197A.130 (11)</i>).</p>	
<p><u>(2) For all audits, within 45 days of public notice of referral, a referred city must provide the notice of referral to the governing body of the city and submit to the Department the following information, if available and relevant to the basis for referral:</u></p> <p><u>(a) The adopted Housing Capacity Analysis, Housing Production Strategy, adoption record including all public testimony, and Midpoint Report, if not already submitted to the Department;</u></p> <p><u>(A) For cities referred under OAR 660-008-0x10, the city may submit any draft materials related to an impending housing production strategy, if available;</u></p> <p><u>(b) Information related to actions and inactions that impact local implementation of fair and equitable housing outcomes, environmental justice, climate resilience and location choice that is not otherwise captured in the HPS;</u></p>	<p>Within 45 days, the rule requires the city to notify its Council/Commission of the audit and provide the following information to DLCD, as available and relevant to the basis of referral. These materials are required for DLCD to deliver an audit that contains all of the requirements outlined in ORS 197A.130 (4).</p> <p>a. The adopted HCA/HPS, associated record, and midpoint report. A draft HPS is acceptable for cities referred for non-adoption, if available.</p> <p>b. Local fair housing and equity work that isn't already captured in the HPS, if any.</p>	<p><i>In addition to clarifying language edits, revisions add a specific directive to DLCD to review a city's prior engagement to reduce engagement fatigue for and burden on participating community members and CBOs.</i></p>



OAR 660-008-0x25 - Department Audit for Cities Referred into the Housing Acceleration Program

Plain Language Description

DLCD Staff Policy Notes

(c) Any summary materials related to engagement conducted by the city that is not otherwise captured in the Housing Production Strategy;

(de) Information related to current funding and staff capacity of the city, including publicly-available departmental budget and staffing information;

(ee) Any localized information or studies related to housing market dynamics such as localized market pricing and rents, local housing development dynamics, or other market-related factors that are not otherwise captured by state data sources, if available;

(fe) Information related to local affordable housing development, including local development contacts, local funding programs/investments, or recent development projects, if available;

(gf) Information related to the local development of housing, including:

(A) Land use planning regulations, including zoning and development code;

(B) Permitting and approval processes relating to development of housing and infrastructure supporting housing;

(C) Required fees, exactions, and improvements;

(D) Any public facilities plans, capital improvement plans, or actions or investments to prepare land for residential development;

(hg) Any potential barriers or issues that the city requests consideration by the Department in the audit, including but not limited to:

(A) Local resource deficiencies, including staffing, public facilities, capital improvements to infrastructure, availability of buildable lands, and actions or investments to prepare land for development;

(B) Specific additional state resources that could support housing production;

(C) Any state laws or rules or the regulations, policies, actions or inactions of any public body that could impact housing production; and

c. Added: To ensure that DLCD reviews prior engagement materials in order to reduce the engagement burden on CBOs and community members.

d. Funding and staffing information of the city.

e. Localized housing data, studies, or relevant information not captured by the state, if any.

f. Information and contacts related to local housing development, if available.

g. Specified related to housing development or infrastructure, including regulations, plans, and fees.

h. City-requested areas for DLCD consideration in the audit, including state programs, resource/capacity needs, or other issues outside of a city's control.

i. Where a city doesn't provide the information specified above, DLCD will utilize best available public information to inform the audit.

j. DLCD is not prohibited from considering other relevant data or information, including information from public comment or feedback.



OAR 660-008-0x25 - Department Audit for Cities Referred into the Housing Acceleration Program	Plain Language Description	DLCD Staff Policy Notes
<p><u>(D) Other factors limiting housing that are not within the city's control.</u></p> <p><u>(ih) Where a city does not have access to or fails to provide suitable information under this subsection, the Department may utilize best available information to support the findings of an audit;</u></p> <p><u>(ji) Nothing in this subsection prohibits the Department from utilizing other sources of relevant data or information, including but not limited to information collected under subsections (3) and (4).</u></p>		
<p><u>(3) For all audits, within ten days of receipt of the submission under subsection (2), the Department must compile submitted information and notify recipients under subsection (1) that public comment may be submitted to the Department within 45 days of the notice date. The Department must:</u></p> <p><u>(a) Provide in a publicly available format any relevant audit materials, including the notice provided under subsection (1) and materials submitted under subsection (2)</u></p> <p><u>(b) Instructions for delivering public comment to the Department; and</u></p> <p><u>(c) Append any comments submitted within 45 days to the audit published under subsection (5).</u></p>	<p>Within 10 days of receiving the information described above, DLCD publishes the information and opens a 45-day public comment period. Any submitted comments must be appended to the published audit.</p>	<p><i>Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>
<p><u>(4) For comprehensive audits, in addition to public comment under subsection (3), the Department must solicit and consider additional contextual information to support audit findings, including:</u></p> <p><u>(a) In consideration of engagement summaries submitted under OAR 660-008-0x25(2)(c), supplemental engagement and invited feedback from interested parties, including but not limited to:</u></p> <p><u>(A) City staff and public officials;</u></p> <p><u>(B) Local or regional market-rate housing developers;</u></p> <p><u>(C) Local or regional subsidized affordable housing developers;</u></p>	<p>For comprehensive audits, DLCD must solicit additional contextual information for the audit, in addition to everything above. This includes:</p> <p><u>Added: a. reporting on engagement from the initial Contextualized Housing Need</u></p> <p>a. Supplemental engagement and invited feedback conducted by DLCD from a variety of local and regional actors and interested parties, such as community-based organizations, housing developers, city staff/public officials, etc.</p>	<p><i>Edits reinforce Department obligation to review existing engagement. Additionally include specific populations who should specifically be invited to engage.</i></p>



OAR 660-008-0x25 - Department Audit for Cities Referred into the Housing Acceleration Program

Plain Language Description

DLCD Staff Policy Notes

(D) Local or regional community-based and non-governmental organizations;

(E) Community members, including those described under OAR 660-008-0140 (2)(I)(i-iii), who represent within the city:

(i) Low-income populations,

(ii) Communities of color,

(iii) People with disabilities

~~Community members representing specific underserved populations within the city;~~

(F) Other relevant public bodies that affect housing production within the city;

(G) Tribal governments within the region, if any; and

(H) Other relevant market or affordable housing-related actors that affect housing production within the city, including lenders, laborers, and occupants.

(b) Engagement and coordination with affected public bodies on barriers or issues that extend beyond a city's control, including:

(A) County or regional coordination as it relates to urbanization and regional programs and resources, including Metro for cities within Metro;

(B) Special district and utility coordination as it relates to the provision of public facilities to support housing production; and

(C) State agency coordination as it relates to policies and programs that affect housing production within a city.

(c) For audits focused on affordable housing production, concurrent review with the Housing and Community Services Department. In addition to the materials submitted under (2), the Department may require the following additional information from a city, if available:

EDIT: Specific populations that should be invited to engage

b. Engagement and coordination with local and regional public bodies on barriers that extend beyond a city's control

c. For audits related to affordable housing development, additional information pertaining to affordable housing development, including a six- or eight-year lookback of affordable housing proposals or inquiries.

d. Nothing in the comprehensive audit requirements prohibits DLCD from considering additional contextual information in standard audits.



OAR 660-008-0x25 - Department Audit for Cities Referred into the Housing Acceleration Program	Plain Language Description	DLCD Staff Policy Notes
<p><u>(A) Any contextual information related to affordability not reflected in statewide housing data, including but not limited to naturally occurring affordable housing, tenant assistance or vouchers, or homeownership programs; or</u></p> <p><u>(B) Information related to subsidized affordable housing development proposals and inquiries, including any contact information, permitting information, and public record information relating to development application approvals or denials:</u></p> <p><u>(i) For cities within Metro, the previous six calendar years</u></p> <p><u>(ii) For cities outside of Metro, the previous eight calendar years</u></p> <p><u>(d) Nothing in this subsection prohibits the Department from soliciting or considering additional contextual information or invited stakeholder feedback for audits that are not comprehensive audits.</u></p>		
<p><u>(5) Within six months of public notice issued under subsection (1), the Department must publish an audit of specific housing barriers, including those identified in the Contextualized Housing Need under OAR 660-008-0100 (1)(a)(F). The audit that must include an analysis of the factors outlined in ORS 197A.130 (4). For each identified barrier, the audit must contain:</u></p> <p><u>(a) A description of the identified barrier, including a description of how the barrier relates to the city's basis for referral:</u></p> <p><u>(A) The Department must consider existing and expected local barriers as it relates to identified Fair Housing Issue Areas in the Contextualized Housing Need analysis under 660-008-0100 (1)(a)(F)</u></p> <p><u>(b) An evaluation of factors that may affect or relate to an identified barrier, including:</u></p> <p><u>(A) Market conditions and factors related to or affecting the barrier:</u></p> <p><u>(B) City context, including existing actions, investments, policies, or programs related to the barrier and an evaluation of city funding and staff capacity to undertake additional action;</u></p>	<p>Within six months of public notice of the audit described above, DLCD must publish an audit of specific housing barriers, responding to the factors identified in ORS 197A.130 (4). To comprehensively address the factors in this section and support an effective housing acceleration agreement, DLCD is required to include the following for each identified barrier in the audit:</p> <p>a. A description of the barrier and how it relates to the city's basis for referral.</p> <p><u>Added: (A) requires DLCD to consider barriers in light of fair housing issue areas identified in the contextualized housing needs in the HPS</u></p> <p>b. An evaluation of the market, local, regional, and state factors that affect or</p>	<p><i>-Added elements to reinforce the connection to the Contextualized Housing Need and identification fair housing issues and include directive for specific review of related barriers.</i></p> <p><i>-Clarification of DLCD review with respect to a city's capacity and finances.</i></p>



OAR 660-008-0x25 - Department Audit for Cities Referred into the Housing Acceleration Program

Plain Language Description

DLCD Staff Policy Notes

(C) Regional context, including actions, investments, policies, or programs of relevant local or regional public bodies that affect the barrier, if applicable; and

(D) Statewide context, including actions, investments, policies, or programs of relevant local or regional public bodies that affect the barrier, if applicable;

(c) Identified regional, and state, and federal orders, agreements, actions, programs, or investments that could support or hinder local action to addressing the identified barriers, if any;

(d) An identification of relevant actions proposed in the existing housing production strategy and evaluation of efficacy of action to address identified barrier;

(e) If the barrier can be partially or wholly addressed via city action, one or more alternative actions provided by the Department that can address the identified barrier. Any action provided under this section must include:

(A) A description of the action, including any relevant case studies, resources, or adoption-ready policies furnished by the Department;

(B) An evaluation of the approximate funding and staff capacity necessary to implement undertake the action;

(C) An evaluation of the city's proportionate financial resources and staff capacity to undertake an action;

(D) If the action requires multiple public bodies for implementation, a description of the public bodies and concurrent actions necessary for local implementation; and

(E) An evaluation of the approximate magnitude of impact that the action will likely have on the identified barrier.

(e) A determination of whether the factors affecting housing production, affordability, and choice are a consequence of policies and practices

relate to the identified barrier, including any relevant actions, investments, policies, or programs that affect the barrier as well as the city's existing capacity/funding.

c. State or regional actions, programs, or investments that could be leveraged to address an identified barrier, if any.

Added: d. An identification or relevant actions in an adopted HPS.

e. If the action can be addressed through local action, a menu of one or more potential actions a city could take that would address the barrier, including an evaluation of the factors necessary for implementation (e.g. capacity, funding, guidance, etc.)

Added: (5)(e)(C)(B)(i) requires DLCD to evaluate a city's proportionate financial resources and staff capacity to undertake a given action



OAR 660-008-0x25 - Department Audit for Cities Referred into the Housing Acceleration Program	Plain Language Description	DLCD Staff Policy Notes
<p>that are directly within the city's control under ORS 197A.130 (8)(a). Actions identified under subsection (d) are directly within a city's control if the action:</p> <p>(A) Is within the jurisdictional control of the city;</p> <p>(B) Can reasonably be implemented with available city resources and staff capacity, supported by technical and financial assistance provided by the Department; and</p> <p>(C) The Department can sufficiently provide technical and financial assistance necessary to support city implementation.</p> <p>(f) Where a determination under (e) concludes that a city lacks reasonable existing resources and staff capacity to implement actions to address an identified barrier, the audit must also include and prioritize building actions that build city capacity, including consideration of:</p> <p>(A) Any identified state or federal programs or investments that can increase local capacity; and</p> <p>(B) Existing and projected city revenue that can increase local capacity, including actions that increase or stabilize local revenue or dedicate funds for increased local capacity.</p>		
<p>(6) For each barrier identified in the audit, the Department must determine whether the factors affecting housing production, affordability, and choice are a consequence of policies and practices that are directly within the city's control under ORS 197A.130 (8)(a). Actions identified under subsection OAR 660-008-0x25(6)(e) are directly within a city's control if the action:</p> <p>(a) Is within the jurisdictional control of the city;</p> <p>(b) Can reasonably be implemented with available city resources and staff capacity identified under OAR 660-008-0x25 (5)(e)(B)(i), supported by technical and financial assistance provided by the Department; and</p>	<p><u>Reorganized into a distinct subsection:</u></p> <p>For barriers identified in the audit above, DLCD must also determine whether the factors affecting the barrier are directly within city control under ORS 197A.130 (8). Actions within the control of the city must meet the following criteria:</p> <p>A. The action(s) are within jurisdictional control of the city</p> <p>B. The action(s) are reasonably implementable with city staff/capacity,</p>	<p><i>This edit is intended to break out the determination of city control into a distinct subsection to operationalize a key question under statute – what is 'directly within the city's control' under statute? The TAC raised the need for this determination to minimize exercise of discretion by DLCD staff, especially avoiding any discretionary determination related to city intent. The proposed approach seeks to do this by evaluating whether a city can undertake a given action with DLCD support/funding.</i></p>



OAR 660-008-0x25 - Department Audit for Cities Referred into the Housing Acceleration Program	Plain Language Description	DLCD Staff Policy Notes
<p><u>(c) The Department can sufficiently provide technical and financial assistance necessary to support city implementation.</u></p>	<p>supplemented with DLCD-provided funding/support, and</p> <p>C. DLCD has sufficient funding and capacity necessary to support local implementation of the action(s)</p>	
<p><u>(7) Where a determination under (6) concludes that a city lacks reasonable existing resources and staff capacity to implement actions to address an identified barrier, the audit must also include and prioritize building actions that build city capacity, including consideration of:</u></p> <p><u>(Aa) Any identified state or federal programs or investments that can increase local capacity; and</u></p> <p><u>(Bb) Existing and projected city revenue that can increase local capacity, including actions that increase or stabilize local revenue or dedicate funds for increased local capacity.</u></p>	<p><u>Reorganized into a distinct subsection:</u></p> <p>If DLCD concludes that a city does not have reasonable existing resources and staff capacity to support implementation of actions, DLCD must prioritize actions that build capacity, which can include state/federal programs or investments or measures that can increase local revenue or capacity.</p> <p><u>Added: Clarified “actions that build city capacity”</u></p>	<p><i>Organizational and clarifying edits. No functional changes.</i></p>
<p><u>(86) After an audit is published by the Department under subsection (5), the Department shall notify all parties described in subsection (1) through (4) and provide access to the published audit in a publicly available format.</u></p> <p><u>(a) The city must provide the published audit to the governing body of the city.</u></p>	<p>Once an audit is complete, DLCD must publish the audit and notify all participants of its publication. A city must provide the findings of the audit to its Council/Commission.</p>	<p><i>Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>
<p><u>(97) Any local government, including cities with a population of 10,000 or greater, may voluntarily request the Department conduct an audit of local, regional, or state barriers.</u></p> <p><u>(a) A request by a local government or city may be submitted to the Department at any time, including prior to or concurrently with a local Housing Production Strategy. The request must specify:</u></p> <p><u>(A) The scope of issues or barriers the audit is intended to address;</u></p> <p><u>(B) The anticipated-preferred timeframe for an audit to occur;</u></p>	<p><u>Edits for clarity</u></p> <p>Any local government of any size may voluntarily request a DLCD-initiated audit. The following apply to a voluntary audit:</p> <p>a. The local government may do this at any time and must identify the scope and timeline of the audit, including any local, regional, or state barriers DLCD should</p>	<p><i>Clarifying language edits. No functional changes.</i></p>



OAR 660-008-0x25 - Department Audit for Cities Referred into the Housing Acceleration Program	Plain Language Description	DLCD Staff Policy Notes
<p><u>(C) Any relevant local or regional governments or state agencies that relate to the identified issue or issues; and</u></p> <p><u>(D) How the request relates to current or future work the local government or city will complete, including an adopted or future Housing Production Strategy.</u></p> <p><u>(b) If the Department accepts the request, the requirements of ORS 197A.130 and OAR 660-008-0x25 to OAR 660-008-0x35 do not apply, and the findings of the audit are non-binding on the Department and the local government or city.</u></p> <p><u>(c) In considering whether to approve a request made under this subsection, the Department must prioritize:</u></p> <p><u>(A) Mandatory referrals made under OAR 660-008-0x10 to 0x20,</u></p> <p><u>(B) Supporting the implementation of an existing or future Housing Production Strategy under ORS 197A.100,</u></p> <p><u>(C) Addressing substantial issues that inhibit housing production, affordability, and choice or best advances the purpose described in OAR 660-008-0000, and</u></p> <p><u>(D) Issues or barriers that are most readily addressed by an audit or intervention by the Department.</u></p> <p><u>(d) In lieu of an audit, the Department may provide alternative options to a local government or city to address an identified issue or issues in an audit request, including the provision of technical or financial support, as available.</u></p> <p><u>(e) Nothing in this subsection prohibits the Department from making mandatory referrals under ORS 197A.130 (3).</u></p>	<p>review and how the audit relates to the city's HPS, if applicable.</p> <p>b. If DLCD accepts a request, statutory requirements do not apply and the audit results are non-binding.</p> <p>c. DLCD must prioritize mandatory referrals, supporting local implementation of an existing or prospective Housing Production Strategy, furthering Goal 10 implementation, and issues best addressed via DLCD intervention, like state coordination.</p> <p>d. DLCD may optionally provide funding or support for a city in lieu of an audit.</p> <p>e. Voluntary audits do not prohibit DLCD from making mandatory referrals under the rule.</p>	
<p><u>(10g) As part of the summary of Housing Production Strategies under OAR 660-008-0145 (9), the Department will incorporate a summary of any state policies or programs identified in audits conducted under OAR 660-008-0x25.</u></p>	<p>This provision requires DLCD to summarize any identified state policies/programs identified in the audit process to LCDC in a regular report.</p>	<p><i>Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>



OAR 660-008-0x25 - Department Audit for Cities Referred into the Housing Acceleration Program	Plain Language Description	DLCD Staff Policy Notes
<p><u>(119) The Department may grant limited extensions to any of the deadlines of this section for emergencies, good cause, or other factors outside of the city's control. Upon a local request for a timeline extension, DLCD must provide a written decision within 30 days of the request, including the rationale for the extension and a revised timeline.</u></p>	<p>DLCD may grant limited extensions to audit timelines for good cause, emergencies, or factors outside of a city's control. An extension decision must be provided in 30 days with both a rationale and revised timeline.</p>	<p><i>Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>

OAR 660-008-0x30 - Housing Acceleration Agreement

OAR 660-008-0x30 - Housing Acceleration Agreement	Plain Language Description	DLCD Staff Policy Notes
<p><u>Within six months following an audit completed under OAR 660-008-0x25, the city and the Department must enter into a housing acceleration agreement that is based on and proportionate to the city's basis for referral under OAR 660-008-0x10 to OAR 660-008-0x20.</u></p>	<p>Within six months of publishing an audit, DLCD and a referred city must enter into a housing acceleration agreement. ORS 197A.130 (6) requires the agreement to be 'based on and proportionate to the city's basis for referral'.</p> <p>ORS 197A.130 (7) requires DLCD to provide funding and implementation support to the city. For referred cities, they may either be required to take expedited action under ORS 197A.130 (8) or take action in the next HPS under ORS 197A.130 (9), depending on whether the barrier is determined to be within the city's control. The rule has six components:</p>	<p><i>Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>
<p><u>(1) A housing acceleration agreement must be signed by the Director and the city within six calendar months of the publication of the audit under OAR 660-008-0x25.</u></p> <p><u>(a) The governing body of a city may designate an authorized representative to sign.</u></p>	<p>The agreement must be signed by DLCD's director and a city within six months of audit publication. A city Council/Commission may designate an authorized representative to sign (e.g. a city manager, director, etc.) and DLCD will provide a minimum 90-day window for</p>	<p><i>Language edits to clarify reporting on Acceleration Agreement as a required element of a city's next HPS (whether it is expedited or delivered according to the regular schedule)</i></p>



OAR 660-008-0x30 - Housing Acceleration Agreement	Plain Language Description	DLCD Staff Policy Notes
<p><u>(b) The Department must provide for at least a 90-day period for city review of a draft agreement before the deadline under this section.</u></p> <p><u>(A) The Department shall grant a time extension to provide a 90-day period for city review if the Department fails to provide a draft agreement as provided in subsection (b).</u></p> <p><u>(c) A housing acceleration agreement must be adopted as an appendix to the consequent or subsequent an amended or new Housing Production Strategy adopted as provided in subsection (3) and (4). Nothing in this section prohibits a city from entering a housing acceleration agreement and amending a Housing Production Strategy concurrently.</u></p>	<p>review of the draft agreement before signature. This agreement must be appended to an amended or new HPS, depending on the referral</p> <p><u>Language edit: (c) attempts to clarify language to indicate the intent to append the agreement to the HPS that a city adopts to comply with the agreement.</u></p>	
<p><u>(2) The housing acceleration agreement must specify actions, parameters, and timelines by which the Department and the city respond to barriers identified in the audit published under OAR 660-008-0x25.</u></p> <p><u>(a) The Department must agree to provide the following as necessary to support the city in the implementation of an action or actions specified in an agreement:</u></p> <p><u>(A) Technical assistance, regulatory support, and other assistance;</u></p> <p><u>(B) Financial or funding support available to the Department in consideration of city funding needs identified under OAR 660-008-0x25 (5); and</u></p> <p><u>(C) Assistance in pursuing other state or public funds in consideration of city funding needs identified under OAR 660-008-0x25 (5).</u></p> <p><u>(b) The city must agree to take actions specified in subsections (3) and (4) that proportionally address each the barrier within the city's control ass identified in OAR 660-008-0x25 (5), which may include:</u></p> <p><u>(A) One or more of the actions proposed in the existing Housing Production Strategy as identified in OAR 660-008-0x25(5)(d).</u></p> <p><u>(AB) One or more of the alternative actions identified in OAR 660-008-0x25 (5)(d) to address a barrier identified in an audit, or</u></p>	<p>The agreement must specify actions and timelines by which DLCD and a city takes actions to address barriers identified in the audit, including:</p> <p>a. DLCD must provide funding, assistance, and support necessary for local implementation, including support in pursuing other regional/state programmatic or funding support</p> <p>b. The city must agree to take proportionate action to address a barrier. The city may either choose an option provided by DLCD in the audit or propose an alternative action that proportionately meets the identified need.</p> <p><u>Added: (A) clarifies that relevant actions originally proposed in the HPS may be applied</u></p> <p>c. Both DLCD and the city are able to work with other public bodies (e.g. Metro, counties, special districts, state agencies)</p>	<p>- Added provision that clarifies that actions outlined in the Acceleration Agreement may include actions from the HPS</p> <p>- Clarified language</p>



OAR 660-008-0x30 - Housing Acceleration Agreement	Plain Language Description	DLCD Staff Policy Notes
<p><u>(CB) An alternative action or actions to those identified in OAR 660-008-0x25 (5)(d). The city must demonstrate that the alternative actions address the identified barrier or barriers on an equivalent and proportionate basis to actions identified in OAR 660-008-0x25 (5)(d).</u></p> <p><u>(c) The Department or the city may coordinate, mediate, or enter into agreements with other public bodies to fulfill actions included in a housing acceleration agreement.</u></p>	<p>to fulfill actions in a housing acceleration agreement.</p>	
<p><u>(3) If the published audit conducted under OAR 660-008-0x25 (5)(e) determines that the factors affecting housing production, affordability, and choice for an identified barrier are a consequence of policies and practices that are directly within the city's control, the city must adopt an amended Housing Production Strategy within six months of the execution date of the housing acceleration agreement that includes:</u></p> <p><u>(a) A timeline for performance under ORS 197A.100 (4) of no less than one year;</u></p> <p><u>(b) Specific city actions, which may include, but are not limited to:</u></p> <p><u>(A) Actions under ORS 197A.100 (3);</u></p> <p><u>(B) Dedicating funds for increased local capacity to facilitate housing production, affordability and choice;</u></p> <p><u>(C) Dedicating funds for public facilities and infrastructure necessary to support housing production;</u></p> <p><u>(D) Taking measures that increase the availability of development-ready land;</u></p> <p><u>(E) Amending the development code, approval criteria or procedures to reduce cost or delay to housing production; and</u></p> <p><u>(F) Taking emergency temporary measures to support housing production;</u></p> <p><u>(c) For actions that require coordination with other public bodies, join any Department initiated mediation or coordination to identify policies and resources that would support housing production in the city.</u></p>	<p>Where the audit determines that the factors for an identified barrier are directly within the city's control (see OAR 660-008-0x25 (5)(e) for that determination), the city must amend an HPS within six months of the agreement that includes:</p> <p>a. No greater than a one-year timeline for city action</p> <p>b. Specified city actions which may include those listed under ORS 197A.130 (8)(a)(B).</p> <p>c. For actions requiring multiple agencies, participate in any DLCD-initiated mediation or coordination</p>	<p><i>Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>



OAR 660-008-0x30 - Housing Acceleration Agreement	Plain Language Description	DLCD Staff Policy Notes
<p><u>(4) For actions other than those described in subsection (3), the city must include findings in its subsequent housing production strategy that the actions included address the barriers identified in the audit.</u></p> <p><u>(a) For actions that require coordination with other public bodies, the city may request Department coordination and mediation to support city implementation of a Housing Production Strategy.</u></p>	<p>Where a city is not required to take expedited action above, the city must incorporate actions into the next HPS and include findings demonstrating that the HPS addresses the barriers identified in the audit. DLCD will review the subsequent HPS for consistency with the audit and agreement, and a city may request DLCD support in coordination and mediation with other agencies.</p>	<p><i>Staff did not make amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>
<p><u>(5) A housing acceleration agreement must include timelines with clear deadlines for the amendment of a Housing Production Strategy under subsection (3), actions undertaken in the agreement, and subsequent adoption of a Housing Production Strategy.</u></p> <p><u>(a) The subsequent deadline for a Housing Production Strategy is the latter of:</u></p> <p><u>(A) Three years following the amendment of a Housing Production Strategy under subsection (3); or</u></p> <p><u>(B) One year after the city's deadline for completing a Housing Capacity Analysis under OAR 660-008-0135.</u></p> <p><u>(b) The Department may provide extensions to a city's subsequent Housing Production Strategy deadline under OAR 660-008-0x10 (1).</u></p>	<p><u>Added: A housing acceleration agreement must include clear timelines and deadlines, including for a city's next Goal 10 planning requirements. These deadlines are outlined in statute but are included here for clarity.</u></p> <p><u>DLCD may provide flexibility on a city's subsequent HPS deadline, as outlined in an earlier rule (OAR 660-008-0x10 (1)).</u></p>	<p><i>This is a new subsection intended to ensure the housing acceleration agreement clearly outlines timelines and deadlines to provide sufficient clarity for work planning, including when a city's next Goal 10 cycle begins, which has flexibility built in to accommodate local capacity needs.</i></p>
<p><u>(56) The Department will review an adopted or amended Housing Production Strategy under OAR 660-008-0145 for consistency with the actions, timelines, and parameters in an executed housing acceleration agreement.</u></p>	<p>For any new or amended HPS involving a housing acceleration agreement, DLCD will review that HPS for consistency with the agreement.</p>	<p><i>Staff did not make any amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>
<p><u>(67) Actions identified in a housing acceleration agreement must be implemented by the timeline and parameters specified in the executed agreement. The Department will address non-compliance in abiding the</u></p>	<p>Actions outlined in the agreement must be implemented by the timelines and parameters specified in the agreement. Failure to abide the agreement results in</p>	<p><i>Staff did not make any amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>



OAR 660-008-0x30 - Housing Acceleration Agreement	Plain Language Description	DLCD Staff Policy Notes
<u>terms of a housing acceleration agreement as specified in OAR 660-008-0x35.</u>	the DLCD-initiated enforcement process described in OAR 660-008-0x35.	
<u>(78) The Department may grant limited extensions to any of the deadlines of this section for emergencies, good cause, or other factors outside of the city's control. Upon a local request for a timeline extension, DLCD must provide a written decision within 30 days of the request, including the rationale for the extension and a revised timeline.</u>	Similar to the audit, DLCD may grant limited extensions to audit timelines for good cause, emergencies, or factors outside of a city's control. An extension decision must be provided in 30 days with both a rationale and revised timeline.	<i>Staff did not make any amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i>



OAR 660-008-0x35 - Non-Compliance in Entering or Abiding the Terms of a Housing Acceleration Agreement

OAR 660-008-0x35 - Non-Compliance in Entering or Abiding the Terms of a Housing Acceleration Agreement	Plain Language Description	DLCD Staff Policy Notes
<p><u>A city referred under OAR 660-008-0x10 to OAR 660-008-0x20 and the Department are required to enter into a housing acceleration agreement under ORS 197A.130 (6) within six months of the publication of an audit by the Department. Under an adopted housing acceleration agreement, the city must take actions by deadlines specified in the housing acceleration agreement as described in OAR 660-008-0x30. To ensure timely and effective implementation of a housing acceleration agreement, the Department must take the following actions in response to non-compliance with a housing acceleration agreement:</u></p>	<p>This rule establishes a process that provides an 'off-ramp' to an LCDC enforcement order if a city either fails to enter an agreement or abide the terms of an agreement. DLCD provides a letter notifying the city of the delinquency, outlines actions necessary for compliance, and provides a formal offer for mediation prior to an enforcement order. The rule consists of five components:</p>	
<p><u>(1) If the city fails to enter or abide the terms of a housing acceleration agreement under OAR 660-008-0x30 by the prescribed deadline, the Department must issue written notice to the city within 30 days.</u></p> <p><u>(a) If the Department fails to provide a housing acceleration agreement to the city at least 90 days before the deadline under OAR 660-008-0x30(1), the city has not materially breached a term of the housing acceleration agreement. A city has not failed to enter a housing acceleration agreement if the Department fails to provide a housing acceleration agreement to the city at least 90 days before the deadline under OAR 660-008-0x30 (1).</u></p> <p><u>(b) If the Department fails to fulfill an action specified in an adopted housing acceleration agreement necessary for the local fulfillment of the agreement, including the provision of technical assistance or funding under OAR 660-008-0x30(2)(a)(A), the city has not materially breached a term of the housing acceleration agreement. A city has not failed to abide the terms of a housing acceleration agreement if the Department fails to fulfill an action specified in an adopted housing acceleration agreement necessary for the local fulfillment of the action, including the provision of technical assistance or funding.</u></p>	<p>DLCD must notify a city that misses a deadline for entering or taking action on a housing acceleration agreement within 30 days. This does not include:</p> <ul style="list-style-type: none"> a. Failure to enter an agreement if DLCD is delayed in providing a draft agreement 90 days before the deadline b. Failure to undertake an action if DLCD fails to fulfill actions necessary for local implementation, including provision of funding or assistance. <p><u>Clarifying language edits – no change to function.</u></p>	<p>Staff did not make any amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</p>



OAR 660-008-0x35 - Non-Compliance in Entering or Abiding the Terms of a Housing Acceleration Agreement	Plain Language Description	DLCD Staff Policy Notes
<p><u>(2) A notice under subsection (1) must include:</u></p> <p><u>(a) The specific delinquent actions and deadlines that the city is required to fulfill;</u></p> <p><u>(b) A description of the action or actions the city can take to remedy the delinquency, including timelines by which the action or actions must be taken;</u></p> <p><u>(c) An offer to enter formal mediation between the Department and the city under subsection (3);</u></p> <p><u>(d) A description of the enforcement actions that the Department will take against the city if action is not taken within 90 days, including the initiation of an enforcement order under ORS 197.320 (13); and</u></p> <p><u>(e) A description of the potential enforcement tools listed in ORS 197.335 (6) that could be applied in an enforcement order.</u></p>	<p>The DLCD notice must include:</p> <p>a. The specific delinquent actions and associated deadlines</p> <p>b. What actions the city can take to remedy the delinquency, including timelines by which action must occur</p> <p>c. An offer for formal mediation with DLCD</p> <p>d. A description of the enforcement actions DLCD will take if action is not taken within 90 days</p> <p>e. A description of the enforcement tools (e.g. model codes, procedures, etc.) that may be applied if LCDC issues an enforcement order</p>	<p><i>Staff did not make any amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>
<p><u>(3) Within 30 days of the notice date, a city may request formal mediation with the Department to remedy the identified delinquency. If requested, the Department will enter formal mediation with the city to identify specific actions and resources needed to remedy the delinquency.</u></p> <p><u>(a) The Department may grant a limited extension to a city's prescribed deadline in a housing acceleration agreement under OAR 660-008-0x30 to accommodate the implementation of actions and resources identified in mediation.</u></p>	<p>Within 30 days of notice, a city may request formal mediation with DLCD to identify actions/resources to remedy the delinquency. DLCD may grant a limited extension as part of the mediation process to accommodate implementation.</p>	<p><i>Staff did not make any amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>
<p><u>(4) Within 90 days of notice, if a local government has not taken action to remedy the delinquency described in subsection (2)(b) and has not entered formal mediation with the Department, the Department will initiate an enforcement order under ORS 197.320 (13).</u></p>	<p>Within 90 days of notice, if a city either has not remedied the delinquency or entered mediation, DLCD will initiate an enforcement order.</p> <p><i>Note: The procedures outlined in ORS 197.319 to 197.353 take over for</i></p>	<p><i>Staff did not make any amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>



OAR 660-008-0x35 - Non-Compliance in Entering or Abiding the Terms of a Housing Acceleration Agreement	Plain Language Description	DLCD Staff Policy Notes
	<p><i>enforcement order proceedings. DLCD does not have any administrative rules for enforcement orders, other than procedural requirements associated with citizen-initiated enforcement orders (OAR Chapter 660, Division 45). This means that LCDC will determine the specific parameters of an order and enforcement tools utilized in an enforcement order, as required by law.</i></p>	
<p><u>(5) The Department may grant limited extensions to any of the deadlines of this section for emergencies, good cause, or other factors outside of the city's control. Upon a local request for a timeline extension, DLCD must provide a written decision within 30 days of the request, including the rationale for the extension and a revised timeline.</u></p>	<p>Similar to the audit and agreement, DLCD may grant limited extensions to audit timelines for good cause, emergencies, or factors outside of a city's control. An extension decision must be provided in 30 days with both a rationale and revised timeline.</p>	<p><i>Staff did not make any amendments to this section of rule since the first iteration of proposed draft rules was published on 7/17/2024.</i></p>