



# Operationalizing the Housing Acceleration Program in the Oregon Housing Needs Analysis

## Introduction and Context

The Oregon Housing Needs Analysis (OHNA) has been codified into law<sup>1</sup> with the intent to facilitate housing production, affordability, and choice to meet housing needs for Oregonians statewide. The OHNA represents the most significant revision to the state's housing planning system since its inception 50 years ago. The Oregon Legislature and Governor Tina Kotek have directed the Department of Land Conservation and Development (DLCD) to iterate housing planning in the state **to ensure that all Oregonians have access to safe, affordable housing in their communities of choice that meets their needs.**

DLCD and the Land Conservation and Development Commission (LCDC) must operationalize a Housing Acceleration Program for statewide land use planning [Goal 10: Housing](#). The intent of this program is to ensure state and local governments are taking proportionate and meaningful actions to resolve barriers to housing production, affordability, and choice in cases where established housing goals and outcomes are persistently missed. To operationalize the direction above, a Rulemaking Advisory Committee (RAC) and Housing Accountability Technical Advisory Committee (HATAC) is tasked with advising DLCD staff on Oregon Administrative Rule (OAR) amendments. This policy brief offers an overview of topics and questions that are relevant to DLCD's rulemaking process:

1. The statutory requirements for the Housing Acceleration Program
2. An overview of the data available to inform DLCD-led evaluation of city progress and performance
3. An overview of how questions will be resolved via the rulemaking process.

An [appendix](#) beginning on page 10 offers the specific statutory language relevant to the OHNA components discussed in this policy brief.

## Why is Housing Acceleration Included in the OHNA?

Prior to the OHNA, the housing planning system emphasized general action towards addressing a need, rather than achieving specific numerical targets or implementing any one particular action. The OHNA builds on this existing framework with the Housing Acceleration Program, which is intended to ensure that state agencies and local governments are taking meaningful and effective actions towards housing production. The new OHNA system has clearly defined goals and transparent demonstration of progress toward goals and helps to foster shared learning about which actions are helping cities make progress, allowing for adjustment over time.

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<sup>1</sup> See House Bills [2001](#) & [2889](#) (2023 Session). Codified in [Oregon Laws 2023, chapter 13](#) and Oregon Revised Statute (ORS) chapters 195, 197, 197A, and 456



## Want to Get Involved and Stay Informed about the OHNA?

The OHNA is a brand new set of laws that affect housing provision for Oregonians. Many of the decisions and ideas described in this document will be finalized over the 2024-2025 time period. DLCD recruited and began meeting with its Advisory Committees in Fall 2023, but there are many ways to get involved and stay informed about the process.

Visit DLCD's [housing rulemaking webpage](#) for additional policy briefs describing

- What is the OHNA
- How the OHNA will be implemented
- How the OHNA will change Statewide Land Use Planning Goals 10 and 14
- Defining Needed Housing in the OHNA

To Get Involved and Stay Informed About the OHNA

- Sign up for process updates at DLCD's housing rulemaking [GovDelivery](#)
- Reach out to DLCD's Housing Division with questions and comments at [housing.DLCD@DLCD.Oregon.gov](mailto:housing.DLCD@DLCD.Oregon.gov)

The OHNA focuses attention on building the housing Oregonians need where they need it (the desired outcome), rather than meeting administrative planning requirements that may or may not result in needed housing production and equitable outcomes on the ground. The OHNA establishes the Housing Production Strategy (HPS) – the document outlining local actions and investments to support housing production – as the focal point of Goal 10 implementation.

The vast majority of housing is built by the private sector and many factors affect housing production, including those that are beyond a local government's control. At the same time, local plans and development policies play a significant role in creating the conditions for housing production. The policy intent is not to penalize jurisdictions for missing targets – it will take time to dig out of housing underproduction – but to evaluate what is working and to course-correct when strategies are not leading to equitable housing production for the communities who need it most.

### 1) Statutory Context

The statute outlines four steps to the Housing Acceleration Program and identifies the methods and criteria for DLCD to use at each step. This policy brief describes these four steps and identifies important questions at each step that will need to be addressed to develop and implement the system by January 1, 2025.



0. Determine relative city<sup>2</sup> progress towards outcomes
1. Referral into the Housing Acceleration Program
2. Audit of barriers to housing production, affordability, and choice
3. Acceleration agreement with the city

The law also directs DLCD to consider the following principles as it operationalized the Housing Acceleration Program:

- A. Increasing housing production
- B. Developing affordable and equitable housing,
- C. Forming partnerships with cities and other public bodies (e.g. state agencies, special districts)
- D. Responding proportionately to housing underproduction
- E. Escalating enforcement to address persistent, repeated or deliberate noncompliance with housing production strategies and action items
- F. Considering the availability of state resources

## **Step 0: Determining City Progress Towards Outcomes**

What is Required in the Law (ORS 197A.130(2))?

ORS 197A.130 is the statute that sets forth how the Housing Acceleration Program functions. [Appendix A](#) includes direct statutory language.

The law requires DLCD to periodically evaluate cities progress and performance on housing production, affordable housing production, and equity outcomes. This evaluation is the basis for referral into the Housing Acceleration Program. Referrals must be based on a city's "relative performance" in its region relating to the following factors:

- (A) A city's progress, proportionate to its population size, toward its total housing production target
- (B) A city's progress, proportionate to its population size, toward its housing production targets for units affordable under 80% of median family income
- (C) The city's performance as demonstrated by a statewide housing equity indicator

The law allows DLCD to consider these factors individually or in combination, and DLCD must consider regional dynamics in its evaluation. Additionally, the law prohibits DLCD from referring a city based solely on its performance on one equity indicator.

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<sup>2</sup> The Housing Acceleration Program refers to 'cities', which is defined in ORS Chapter 197A to be inclusive of unincorporated communities in Tillamook County ([SB 406; 2023 Session](#)) and urban, unincorporated portions of Metro counties ([HB 4063; 2024 Session](#)). This brief uses 'cities' for consistency and brevity.



## What are Some Initial Rulemaking Questions?

Many questions arise from the criteria outlined in the law. See [page 7](#) for a deeper discussion of the data available to inform these criteria. The questions below represent just some of the areas that require clarification prior to implementation.

1. How should DLCD weigh these three criteria? Should they be considered individually or collectively?
2. How can DLCD assess a city's 'progress' or 'performance' in the housing production dashboard and equity indicators produced by OHCS? How should DLCD consider data limitations?
3. Beyond the Housing Production Dashboard and Equity Indicators, are there other factors that DLCD can consider in determining a city's 'progress' or 'performance'?

### **Step 1: Referral into the Housing Acceleration Program**

What is Required in the Law (ORS 197A.130(3))?

The law requires DLCD to annually refer cities into the Housing Acceleration Program if they meet any of the following conditions:

1. The city is not making sufficient progress in housing production and equitable outcomes. This determination happens at the midpoint the Housing Production Strategy (HPS) timeline, which is three to four years after a city adopts an HPS.
2. The city did not adopt an HPS by the deadline set by law.
3. The city did not adopt and follow through on the actions laid out in the HPS by the deadline.
4. The city is referred into the Housing Acceleration Program by an LCDC (Land Conservation and Development Commission) enforcement order.

## What are Some Initial Rulemaking Questions?

1. What is the timeline and process for DLCD referral into the Housing Acceleration Program? How will cities and interested parties be notified of a referral decision?
2. What circumstances or factors, quantitative or qualitative, warrant a referral?
3. How many cities should DLCD refer each year? Should there be upper or lower bounds?



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## Step 2: DLCD's Audit of Housing Production Barriers

What is Required in the Law (ORS 197A.130(4) to (5))?

Once cities are referred into the Housing Acceleration Program, DLCD is required to work with the city to conduct an audit of local and state barriers to production, affordability, and choice. DLCD must complete the audit within six months of referral. This audit is used as the basis of a Housing Acceleration Agreement between cities and DLCD, discussed further in Step 3.

The audit includes an assessment of various aspects such as a local government's most recent Goal 10 work, feedback from interested parties, as well as market, policy, capacity, and funding factors both within and beyond the control of the local government. Specifically, the statute requires an evaluation of the following:

- The HPS adopted by a city along with any associated materials
- Public comments and feedback from interested parties submitted to DLCD
- Regulations pertaining to local planning and development
- Processes involved in local permitting
- Fees, exactions, and requirements for public facilities improvements
- Actions or lack thereof concerning fair and equitable housing outcomes, environmental justice, climate resilience, and choice of location
- Deficiencies in local capacity, funding, infrastructure, or land
- Potential state resources that could aid in production
- Policies of state agencies or other public entities (e.g., special districts) that could impact production
- Other potential factors that may lie beyond the control of a local government

### What are Some Initial Rulemaking Questions?

1. How should the audit process be structured to best achieve legislative priorities and direction? Who should be invited to participate and how?
2. How will audits, and the barriers evaluated therein, vary based on local context?
3. How should DLCD evaluate factors both within and outside of city control in the audit? What is the outcome or deliverable of the audit?
4. What is the appropriate role for other state agencies and public bodies (e.g., special districts) in the audit process?



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### Step 3: Housing Acceleration Agreements

What is Required in the Law (ORS 197A.130(6) to (10))?

After DLCD completes its audit, it must collaborate with the city to create a Housing Acceleration Agreement within another six months. The agreement should proportionately address the criteria that led to the city's referral to the Housing Acceleration Program.

DLCD must provide technical assistance and regulatory support to assist the city in performing its agreement, must provide its own funding, and must assist the city in pursuing other public funding to overcome the barriers identified in the audit.

DLCD will offer funding, technical assistance, and regulatory support to help the city fulfill the agreement. DLCD must also support the city in securing additional public funds to address the barriers identified in the audit.

If DLCD finds that the factors affecting housing production, affordability, and choice result from policies and practices directly within the city's control, the city must adopt an amended housing production strategy within six months of the agreement. The amended HPS must outline the actions it will take to overcome identified barriers. These actions include:

- i. Typical actions found in Housing Production Strategies,
- ii. Allocating funds to support housing production, affordability, and choice,
- iii. Allocating funds for necessary public facilities and infrastructure,
- iv. Implementing measures that increase the availability of development-ready land,
- v. Modifying development codes, approval criteria, or procedures to streamline housing production and reduce cost.
- vi. Implementing temporary emergency measures to support housing production;

Furthermore, the city must participate in DLCD-led interagency mediation to explore policies and resources from other state agencies that could support housing production. If not required to revise its housing production strategy, DLCD may require a city to incorporate findings from the audit and suggested actions into its next strategy.

If the city does not enter an agreement with DLCD or follow the terms or deadlines set in the Housing Acceleration Agreement, DLCD may seek an enforcement order from LCDC to ensure compliance. LCDC can employ various measures until the city reaches compliance, including:

- Directly applying model ordinances, procedures, actions, or anti-displacement measures,
- Reducing maximum review timelines for local processes, including requiring housing to be reviewed via a ministerial process,
- Implementing specific actions to waive or amend local ordinances,
- Withholding revenue under LCDC's existing authority, which could be used to support the city's compliance efforts,



## What are Some Initial Rulemaking Questions?

1. Once an audit is complete, what should the process to develop a housing acceleration agreement look like? How will interested parties be notified of an agreement?
2. How do the findings of the audit affect what is included in the agreement? To what extent can DLCD and cities negotiate actions included in the agreement?
3. What funding sources should be made available to support local implementation? How can DLCD connect cities with other state agencies and programs?
4. What parameters and, if necessary, enforcement tools should be in place to ensure actions within an agreement are adopted or implemented by a statutory deadline?

## 2) What Data will Support Implementation of the Housing Acceleration Program?

OHCS is responsible for creating the Housing Production Dashboard (ORS 456.601(2-3)) and the Housing Equity Indicators (ORS 456.602 (1-2)) which must be finalized and publicly available by Jan. 1, 2025. These dashboards will inform many of the questions posed in Section 1 above. OHCS will conduct a separate rulemaking process in 2024 to help it identify the administrative and operational principles that will govern its OHNA requirements. DLCD and its advisory committees will determine what combination of the data and information provided will be used for the Housing Acceleration Program and how.

The law also describes the OHNA methodology (ORS 184.451-455) which will be finalized by DAS. The methodology must be finalized and the OHNA must produce results by Jan. 1, 2025, which will then be the basis of housing need for future Goal 10 processes conducted by cities. The OHNA methodology and results are not subject to rulemaking (see this [OHNA implementation policy brief](#) for more details).

### OHNA Housing Production Dashboard

The OHNA Housing Production Dashboard will use the production targets generated by the OHNA methodology and incorporate housing production data reported by cities and collected by OHCS to demonstrate progress toward targets. The Housing Production Dashboard will also display each city's progress toward its targets compared to its region (regions determined by DAS) and "similar market types" as determined by OHCS. DLCD will use the information provided in the Housing Production Dashboard to inform its referrals into the Housing Acceleration Program.

### What is Required in the Law?

ORS 456.601(2-4) address the Housing Production Dashboard requirements. Each year OHCS must update a publicly available statewide housing dashboard that includes the following information for all cities with a population of 10,000 or greater:

- (a) Progress toward total housing production targets and housing production targets by income segment (0-30% AMI; 30-60% AMI; 60-80% AMI; 80-120% AMI; 120%+ AMI)





- (b) Comparative analysis of progress in comparison to the region and other local governments with similar market types

The Housing Production Dashboard will display progress toward targets informed by OHCS's Oregon Affordable Housing Inventory and data provided annually by cities under the Housing Production Reporting Requirements (ORS 197A.110(3)).

### **Housing Equity Indicators**

OHCS is also responsible for producing statewide Housing Equity Indicators. The law requires these indicators to be publicly available; OHCS may include the indicators on the same display as the Housing Production Dashboard or may create a separate display.

#### **What is Required in the Law?**

ORS 456.602(1-2) discusses the Housing Equity Indicators. Each year OHCS must publish statewide equity indicators for each city with a population over 10,000, that includes the following quantifiable data, to the extent that the department can determine, define, or estimate it:

- (a) Housing outcomes, such as cost burden and availability of housing units to own or to rent, and housing condition for various demographics, including race or ethnicity, disability status, English proficiency and age;
- (b) Housing types produced and overall land efficiency of existing and new housing;
- (c) New housing units built to standards, as defined by the Department of Consumer and Business Services by rule, relating to accessibility and visitability;
- (d) Risk of gentrification and displacement;
- (e) Housing segregation by race and income;
- (f) Environmentally just housing outcomes, informed by the environmental justice mapping tool, developed by the Environmental Justice Council;
- (g) Residential tenants who spend more than 50 percent of their household income on gross rent for housing; and
- (h) Other measurable factors or indicators identified by the department.

### **3) What is the Process for Answering these Questions? What Does DLCD's Rulemaking Need to Accomplish?**

Many of the questions posed in Section 1 will help guide DLCD in developing the Housing Acceleration Program. These are complex, interrelated topics that do not have easy answers. In addition, many of the inputs that inform the rule framework—such as the final methodology and the details of the Housing Production Dashboard—will not be finalized until mid-late 2024.

Further, there are numerous interrelated questions about how to operationalize the Equity Indicators to accurately measure housing outcomes for use in the Housing Acceleration Program. A firm understanding of the community priorities for the Equity Indicators, as well as





the potential data sources, variables and calculations, and geographic applicability of these data won't be available until mid-late 2024.

The rulemaking process must proceed while these questions are still being answered.

Accountability in the OHNA has three major policy goals centered around the three steps of the Housing Acceleration Program:

1. Developing consistent criteria for **referral** into the housing acceleration program, including evaluating city **progress and performance**;
2. Designing an efficient and effective **audit** of local housing barriers; and
3. Coordinating a **partnership strategy** with cities, including incentives and enforcement tools.

The OHNA Housing Acceleration Program rules will be developed throughout 2024 (see this [OHNA implementation policy brief](#) for more details). The HATAC will discuss the pros and cons of many of these issues and policies and will present alternatives for the RAC and DLCD to consider. The RAC will discuss the alternative approaches and will provide advice and guidance to DLCD. The HATAC may need to provide additional technical input on specific items throughout the process. In June 2024 DLCD will draft the rules for review by the RAC and HATAC. Revised rules will be published by the Secretary of State in October, followed by a public comment period. Final rules must be published by January 1, 2025.



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## Appendix A: Statutory References

### ORS 197A.130 - Housing Acceleration Program

(1) In developing and implementing this section and performing its duties under ORS 197.319 (4), the Department of Land Conservation and Development shall be guided by ORS 197A.025 (1) and the following principles:

- (a) Increasing housing production;
- (b) Developing affordable and equitable housing;
- (c) Forming partnerships with cities and with other public bodies;
- (d) Responding proportionately to housing underproduction;
- (e) Escalating enforcement to address persistent, repeated or deliberate noncompliance with housing production strategies and action items; and
- (f) Considering the availability of state resources to support housing production.

(2)(a) In determining whether a city should be referred under subsection (3) of this section, the department may base its evaluation on the city's relative performance with consideration of its region, as established in the Oregon Housing Needs Analysis under ORS 184.451 (1), on any one of, or any combination of, the following:

- (A) A city's progress, proportionate to its population size, toward the total housing production target under ORS 184.455 (2)(a).
- (B) A city's progress, proportionate to its population size, toward the housing production targets for those affordability levels for families making less than 80 percent of median family income under ORS 184.455 (2)(b).
- (C) The city's performance as demonstrated by a statewide housing equity indicator under ORS 456.602.

(b) The department may not base a determination made under this subsection solely on a city's performance on any single equity indicator.

(3) Each year, the department shall refer into its housing acceleration program, under subsection (4) of this section:

- (a) Of those cities that adopted a housing production strategy more than three but less than four years ago, including as required by subsection (7)(a) of this section, the lowest performing cities, if any exist, as determined under subsection (2) of this section;
- (b) Each city that has failed to adopt a housing production strategy by the deadline under ORS 197A.100 (1);
- (c) Each city that has failed to undertake actions in its housing production strategy by the deadline under ORS 197A.100 (4); and
- (d) Cities referred under ORS 197.319 (4).



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- (4) For each city referred to the housing acceleration program, within six months, the department shall, in cooperation with the city, complete an audit of specific housing barriers, that must include an analysis of the following factors affecting housing production, affordability and choice:
- (a) The existing housing production strategy and the documents and record supporting the strategy;
  - (b) Public written comments and invited stakeholder feedback received by a date specified by the department;
  - (c) Land use planning regulations, including zoning and development code;
  - (d) Permitting and approval processes relating to development of housing and infrastructure supporting housing;
  - (e) Required fees, exactions and improvements;
  - (f) Actions and inactions that can impact fair and equitable housing outcomes, environmental justice, climate resilience and location choice;
  - (g) Local resource deficiencies, including staffing, public facilities, capital improvements to infrastructure, availability of buildable lands and actions or investments to prepare land for development;
  - (h) Specific additional state resources that could support housing production;
  - (i) Changes to state laws or rules or the regulations, policies, actions or inactions of any public body, as defined in ORS 174.109, as that could impact housing production; and
  - (j) Other factors limiting housing that are not within the city's control.
- (5) In performing an audit under subsection (4) of this section, the department:
- (a) May request concurrent review of the city's measures and housing production strategies under ORS 197A.205; and
  - (b) Shall notify any public body identified under subsection (4)(i) of this section.
- (6) Within six months following an audit under subsection (4) of this section, 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 subsection (3) of this section and informed by the audit under subsection (4) of this section.
- (7) Under the housing acceleration agreement, the department shall agree to provide:
- (a) Specified technical assistance, regulatory support and other assistance, to assist the city in performing its agreement under subsection (8) of this section;
  - (b) Specific funding under the department's control; and
  - (c) Specified assistance in pursuing other state or public funds.
- (8) Under the housing acceleration agreement, the city shall agree to:
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(a) If the department determines that the factors affecting housing production, affordability and choice are a consequence of policies and practices that are directly within the city's control, adopt an amended housing production strategy within six months that includes:

(A) A timeline for performance under ORS 197A.100 (4) of no less than one year; and

(B) Specified actions which may include, but are not limited to:

(i) Actions under ORS 197A.100 (3);

(ii) Dedicating funds for increased local capacity to facilitate housing production, affordability and choice;

(iii) Dedicating funds for public facilities and infrastructure necessary to support housing production;

(iv) Taking measures that increase the availability of development-ready land;

(v) Amending the development code, approval criteria or procedures to reduce cost or delay to housing production; and

(vi) Taking emergency temporary measures to support housing production; and

(b) Join any department initiated interagency mediation to identify policies and resources that would support housing production in the city.

(9) The department may require that a city that is not required to adopt an amendment to its housing production strategy under subsection (8)(a) of this section include findings at the time that the city is next required to adopt a housing production strategy under ORS 197A.100 (1) that describe how the city has addressed the audit's findings and any suggested actions.

(10) The department may grant limited extensions to deadlines under subsections (3)(b) and (c) and (8)(a) of this section for emergencies, good cause or other factors outside of the city's control.

(11) The actions by a city or department under this section are not land use decisions and are not subject to appeal or review.

(12) All public bodies, as defined in ORS 174.109, are directed to assist cities and the department in the performance of their duties under this section and to take timely action to ensure that the agency's rules or policies do not unduly delay implementation of a housing acceleration agreement under this section.

#### **ORS 456.601 - Statewide housing production dashboard**

(1) The Housing and Community Services Department may adopt rules to implement this section and ORS 456.602.

(2) On an annual basis the Housing and Community Services Department shall update a publicly available statewide housing production dashboard.



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(3) The dashboard shall include, for each city with a population of 10,000 or greater, as defined in ORS 184.451:

- (a) Progress toward housing production targets in ORS 184.455 (2); and
- (b) A comparative analysis of progress in comparison to the region and other local governments with similar market types.

(4) Information in the dashboard must be based on:

- (a) Inventory of publicly supported housing, as defined in ORS 456.250, that is maintained by the department; and
- (b) Information submitted to the department under ORS 197A.110 (3).

**ORS 456.602 - Statewide housing equity indicators**

(1) On an annual basis the Housing and Community Services Department shall update publicly available statewide housing equity indicators.

(2) The indicators shall include, for each city under ORS 456.601, quantifiable data, to the extent that the department can determine, define or estimate it, displaying:

- (a) Housing outcomes, such as cost burden and availability of housing units to own or to rent, and housing condition for various demographics, including race or ethnicity, disability status, English proficiency and age;
- (b) Housing types produced and overall land efficiency of existing and new housing;
- (c) New housing units built to standards, as defined by the Department of Consumer and Business Services by rule, relating to accessibility and visitability;
- (d) Risk of gentrification and displacement;
- (e) Housing segregation by race and income;
- (f) Environmentally just housing outcomes, informed by the environmental justice mapping tool, developed by the Environmental Justice Council under ORS 182.555;
- (g) Residential tenants who spend more than 50 percent of their household income on gross rent for housing; and
- (h) Other measurable factors or indicators identified by the department.