

# **Affirmatively Furthering Fair Housing in Oregon Law**

## **Affirmatively Furthering Fair Housing Defined**

“Affirmatively furthering fair housing” means meaningful actions that, when taken together, address significant disparities in housing needs and access to opportunity and replace segregated living patterns with truly integrated and balanced living patterns to transform racially and ethnically concentrated areas of poverty into areas of opportunity and foster and maintain compliance with civil rights and fair housing laws.

Source: ORS 197A.100(9)

## **Housing Production Strategy Must Affirmatively Further Fair Housing**

A housing production strategy must include a list of specific actions, including the adoption of measures and policies, that the city shall undertake to promote:

- (a) The development of needed housing;
- (b) The development and maintenance of housing that is of diverse housing types, high-quality, affordable and accessible;
- (c) Housing with access to economic opportunities, services and amenities; and
- (d) Affirmatively furthering fair housing.

Source: ORS 197A.100(2)

## **Affirmatively Furthering Fair Housing as a Primary Purpose**

SECTION 1. (1) There is established within the Oregon Department of Administrative Services the Oregon Housing Needs Analysis. The purposes of the Oregon Housing Needs Analysis are to further the:

- (a) Production of housing to meet the need of Oregonians at all levels of affordability; and
- (b) Production of housing in a way that creates more housing choice by affirmatively furthering fair housing, as defined in ORS 197.290.

Source: [HB2001 2023 Regular Session - Oregon Legislative Information System \(oregonlegislature.gov\)](https://legislature.oregon.gov/bills/2001/2023/regular/session/)

## **Housing Production Strategy Report Structure**

As provided in ORS 197.290(2), a city with a population of more than 10,000 people must develop and adopt a Housing Production Strategy Report that includes a list of specific actions, including the adoption of measures and policies that the city shall undertake to promote 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, this Report must include the following components:

(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.

- (a) At a minimum, this must include a discussion of:

- (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;
- (B) Measures already adopted by the city to promote the development of Needed Housing;
- (C) Market conditions affecting the provision of Needed Housing;
- (D) Existing and expected barriers to the development of Needed Housing;
- (E) An estimate of the number of people or households experiencing homelessness. Estimates must include, as available, the following data sources:

- (i) An estimate of regional housing need for people experiencing homelessness provided by the state or regional entity;
- (ii) The applicable Housing and Urban Development Point-in-Time count conducted by the Continuum of Care that the city is located within;
- (iii) The applicable Housing and Urban Development Annual Homelessness Assessment Report; and
- (iv) The applicable McKinney-Vento Homeless Student Data for all school districts that overlap with the city boundary.

(F) Percentage of Rent Burdened Households, as determined in the report described in OAR 813-112- 0020(2);

(G) Housing tenure, including rental and owner households; and

(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.

(b) A city may use the following types and sources of data to further contextualize housing need for the purposes of this section:

- (A) The percentage of housing stock that is market rate compared to the percentage of housing stock that is subsidized to make it affordable;
- (B) Units that the city has permitted but which have not yet been produced;
- (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;
- (D) Redevelopment rates that impact the preservation of existing affordable market-rate units; and

(E) Other types and sources of data to refine housing need for those experiencing homelessness, including:

- (i) Data collected by local Coordinated Care Organizations;
- (ii) Data collected by community action agencies;
- (iii) The capacity of existing emergency shelters;
- (iv) Rental and homeowner vacancy rates;
- (v) Change in gross or net property values or rent over time;
- (vi) Qualitative data that illustrate specific needs of people experiencing homelessness; and
- (vii) Other local houseless population datasets

(2) Engagement – A Housing Production Strategy Report must include a narrative summary of the process by which the city engaged Consumers of Needed Housing and Producers of Needed Housing, especially with regard to state and federal protected classes. A city may conduct engagement for a

Housing Production Strategy concurrent with other housing planning efforts within the city including, but not limited to, a Housing Capacity Analysis, Consolidated Plans for Community Development Block Grant Entitlement Communities, and public engagement for Severely Rent Burdened Households as described in OAR 813-112-0010. The narrative summary must include the following elements:

- (a) A list and description of stakeholders who will be impacted by potential Housing Production Strategies, stating who was engaged and why, including Consumers of Needed Housing and Producers of Needed Housing;
- (b) A summary of feedback received from each stakeholder group;
- (c) A description of how the information from stakeholders influenced implementation of Housing Production Strategies adopted by the city as provided in section (3); and
- (d) An evaluation of how to improve engagement practices for future housing engagement efforts conducted by the city.

(3) Strategies to Meet Future Housing Need – A Housing Production Strategy Report must identify a list of specific actions, measures, and policies needed to address housing needs identified in the most recent Housing Capacity Analysis. The strategies proposed by a city must collectively 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 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, the Housing Production Strategy Report must include:

- (a) A description of the Housing Production Strategy chosen;
- (b) A timeline for adoption of the Housing Production Strategy;
- (c) A timeline for implementation of the Housing Production Strategy; and
- (d) An estimated magnitude of impact of the Housing Production Strategy, including:
  - (A) Housing need addressed by the identified Housing Production Strategy by tenure and income;
  - (B) An estimate of the number of housing units that are anticipated to be created through implementation of the identified Housing Production Strategy;
  - (C) An analysis of the income and demographic populations that are anticipated to receive benefit or burden from the Housing Production Strategy, including:
    - (i) Low-income communities;
    - (ii) Communities of color;
    - (iii) People with disabilities; and
    - (iv) Other state and federal protected classes; and
  - (D) A time frame over which the Housing Production Strategy is expected to impact Needed Housing.

(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:

- (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 codes;

(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;

(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.

(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;

(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

(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.

(5) A Housing Production Strategy Report must include the following additional elements:

(a) A description of any opportunities, constraints, or negative externalities associated with adoption of the elements of proposed Housing Production Strategies;

(b) A description of actions that the city and other stakeholders must take to implement the proposed Housing Production Strategies;

(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.

Source: [OAR 660-008-0050](#)