

# HOUSING RULEMAKING ADVISORY COMMITTEE MEETING PACKET #3



**TO:** Housing Rulemaking Advisory Committee Members  
**FROM:** Ethan Stuckmayer, Senior Housing Planner  
**SUBJECT:** RAC Meeting Packet #3

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Housing Rulemaking Advisory Committee Members,

Thank you in advance for preparing for another important Rules Advisory Committee (RAC) meeting. The third Housing Rulemaking Advisory Committee (RAC) meeting scheduled for **January 22 from 11am-2pm** in Salem, OR. Please note that the meeting will be held in **DLCD's Basement Hearing Room** (635 Capitol St NE, Salem). While we encourage your in-person attendance at this meeting, we understand some members may not be able to travel to the meeting. Participation via Zoom conference call is an option. If you must participate by remote, please follow the Zoom link in the calendar appointment at the time of the event. By using Zoom, you will be able to see any shared screed documents staff might project.

During our second Housing Rulemaking Advisory Committee meeting on December 16, 2019, we focused on collecting your guidance on two items related to HB2001: 1) the structure and concepts of the middle housing model code and 2) preliminary concepts for the infrastructure based time extension request (IBTER). At our third meeting, our focus will shift to two specific provisions in HB2003: 1) a regional housing needs analysis and 2) housing production strategies.

### **Request for Review and Comment on Meeting Packet Materials**

Please review the information provided in this packet thoroughly in advance of the meeting. As usual, we will have a full agenda and look forward to receiving your guidance on the Middle Housing Model Code structure and preliminary concepts.

The primary objectives for RAC3 are to:

1. Hear a presentation on the regional housing needs analysis methodology from staff at Oregon Housing and Community Services (OHCS),
2. Solicit RAC feedback on preliminary Housing Production Strategy concepts, and
3. Summarize the first Middle Housing Model Code Technical Advisory Committee results and next steps

### RAC Meeting Packet #3 Materials List

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*IMPORTANT NOTE: We have provided a Discussion Worksheet as packet item #5. This worksheet will mirror the discussion anticipated at the meeting. Please use the worksheet to take down notes or formulate your questions for the project team as you review the packet materials. Due to limited discussion time at our meetings, please submit this as additional written feedback to the project team as you leave. Also, RAC members will receive an email after the meeting with the link to a fillable discussion worksheet where they can submit comments and/or questions that we did not have time for or were otherwise missed.*

### **Update on Community Engagement Efforts**

DLCD Staff participated in a Community Conversation roundtable event held in Medford on December 10. Staff hosted around 40 members of the Southern Oregon community at the event and gathered questions and comments related to HB2001 and HB2003. Staff collected these perspectives and the many questions asked in a meeting summary that is provided in this packet. Some hopes and concerns DLCD heard at the Medford Conversation include:

- Hopes: that we would listen to people actually in the affordability crisis (ex/homeless); System Development Charges would take on a flexible, form-based approach, that can change as markets change; State resources for planning work, technical assistance dispersed promptly
- Concerns: infrastructure within unincorporated areas, clarity around enforcement of statutes and rules; siting and design standards; keeping leaders committed to the process

Upcoming Community Conversations are scheduled as follows:

- Portland Metro West – January 29 (7pm – 9pm), Portland Community College Willow Creek Campus
- Portland Metro East – January 30 (6pm - 8pm), Clackamas Community College Milwaukie Campus
- Hermiston – February 10 (12pm – 2pm), Eastern Oregon Trade and Event Center
- Redmond – February 11 (1pm – 3pm), City of Redmond City Hall

Additionally, several local governments or groups have requested that DLCD staff present an overview of HB2001 and HB2003 to clarify any questions and concerns. Recent Speaker’s Bureau presentations include:

- Metro Technical Advisory Committee
- Washington County Coordinating Committee

We also will be convening focus groups with community members who have had the lived experience of having trouble finding affordable housing.

*As a reminder, DLCD staff can be available to attend local meetings to describe these bills, the rulemaking process, or to answer questions. Please send Speaker’s Bureau requests to [ethan.stuckmayer@state.or.us](mailto:ethan.stuckmayer@state.or.us).*

Additionally, listening to and incorporating comments from individuals and communities not able to participate in this meeting is critical to a successful rulemaking process. If you or someone you know would like to provide comments or submit questions related to HB2001/HB2003, rulemaking, or the implementation of these bills,

please send them to [housing.dlcd@state.or.us](mailto:housing.dlcd@state.or.us). Interested parties are also encouraged to sign-up for updates on the rulemaking process at <https://www.oregon.gov/lcd/LAR/Pages/Housing.aspx>.

### **Regional Housing Needs Analysis**

One of the major deliverables outlined in HB2003 is a regional housing needs analysis that will help to identify the housing shortage and subsequent need to housing on a regional scale. The bill requires that Oregon Housing and Community Services (OHCS) work in coordination with DLCD and the Department of Administrative Services (DAS) to develop and run a methodology to study housing needs in 11 regions across Oregon. These agencies have been coordinating on a monthly basis to work through methodology and policy questions. OHCS will provide RAC members with an update on the progress they have made in formulating the methodology and the general approach in gathering data that can be valuable in better understanding Oregon's long term housing needs.

### **Housing Production Strategies**

Also provisioned in HB2003 is a new reporting and planning process for cities over 10,000 population. Housing Production Strategies identify a list of specific actions, policies, and measures a city will undertake to meet any housing need identified in a housing needs analysis. A Housing Production Strategy is supplemental to a housing needs analysis and must explore many of the non-zoning or land-use related production strategies that are not considered in a typical housing needs analysis. Each action undertaken by a city to increase housing production should be evaluated based on their implementation timeline, magnitude of impact, and equity- and environmental-based outcomes.

A primary agenda item for RAC3 will be to discuss DLCD's preliminary Housing Production Strategy concepts and key considerations. Please review the Housing Production Strategy Concepts Memo attached in this packet prior to the meeting and come ready to have a robust discussion on the refinement of these concepts and considerations. Feedback collected from the RAC on this agenda item will be used to inform the discussion at the first Housing Production Strategy Technical Advisory Committee meeting on February 6, 2020.

If you have any questions on the materials in this packet or about the legislation itself, please feel free to contact me via phone or email, my information is listed below. We are grateful for your participation in this important initiative and look forward to working with you!

Thank you,



**Ethan Stuckmayer**

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**Additional DLCD Staff Contacts for the Rulemaking Process:**

**Kevin Young, Senior Urban Planner and Point of Contact for Infrastructure TAC**

Questions [kevin.young@state.or.us](mailto:kevin.young@state.or.us)

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**Robert Mansolillo, Housing Planner and Point of Contact for Model Code TAC**

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**Samuel Garcia, Housing Planner and Point of Contact for Housing Production Strategy TAC**

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**Casaria Taylor, Rules Coordinator and Point of Contact for All RAC Logistics**

[Casaria.taylor@state.or.us](mailto:Casaria.taylor@state.or.us)

503-934-0065

**Please note:** email correspondence should be sent directly to [Casaria.taylor@state.or.us](mailto:Casaria.taylor@state.or.us) who will then distribute to staff or advisory committee members as needed.

**Rulemaking Advisory Committee Charge:**

*Members of the Rules Advisory Committee (RAC) shall provide guidance to agency staff to implement the legislative intent of House Bills 2001 and 2003. While complying with legislative intent, RAC members are asked to work with agency staff to develop recommended rules that:*

- *Acknowledge the importance of reasonable regulations such as mass, scale, and design in accordance with clear and objective standards.*
- *Provide for affordable living choices including access to employment and transportation choice.*
- *Allow for phased development consistent with infrastructure supply.*
- *Strive to result in equitable outcomes that benefit marginalized communities and/or people.*

**Housing Rulemaking Advisory Committee Meeting (RAC #3)**  
**January 22, 2020; 11:00 am – 2:00 pm**

Department of Land Conservation and Development  
 Basement Hearing Room  
 635 Capitol Street NE #150, Salem, Oregon 97301



**PROPOSED AGENDA**

Housing Rulemaking Advisory Committee Meeting #3		
Time	Topic	Who
10:30 – 11:00 am	<i>Arrive and Settle In</i>	<ul style="list-style-type: none"> <li>• RAC members</li> </ul>
11:00 – 11:15 am	<b>Welcome, Introductions, Announcements, and Agenda Review</b>	<ul style="list-style-type: none"> <li>• Commissioner Anyeley Hallova, LCDC, and RAC Co-Chair</li> <li>• Jerry Lidz, RAC Co-Chair</li> <li>• Sylvia Ciborowski, Facilitator, Kearns &amp; West</li> <li>• DLCD Staff</li> </ul>
11:15 – 11:55am	<p><b>Oregon Housing and Community Services (OHCS) Regional Housing Needs Analysis Update</b></p> <p style="color: green;"><u>Desired Outcome:</u> Provide an update on the OHCS Regional Housing Needs Analysis process and offer the opportunity for RAC members to ask questions.</p>	<ul style="list-style-type: none"> <li>• Kim Travis and Kate Srinivasan, OHCS</li> <li>• Sylvia</li> </ul>
11:55 am – 12:10 pm	<i>Lunch (provided on-site)</i>	
12:10 – 1:10pm	<p><b>Outline Housing Production Strategies Key Elements:</b></p> <ul style="list-style-type: none"> <li>• Provide Guidance to Housing Production Strategies TAC</li> </ul> <p style="color: green;"><u>Desired Outcome:</u> Provide RAC members with an understanding of the Housing Production Strategies component of HB 2003, and seek feedback on topics/issues that the Housing Production Strategies TAC should consider.</p>	<ul style="list-style-type: none"> <li>• Ethan Stuckmayer and Samuel Garcia, DLCD</li> <li>• RAC members</li> </ul>

Housing Rulemaking Advisory Committee Meeting #3		
Time	Topic	Who
1:10 – 1:40 pm	<b>Report Back on Middle Housing Model Code TAC</b>  <u>Desired Outcome:</u> Provide RAC members with an update on the Model Code TAC and offer a chance for RAC members to ask questions and provide further guidance.	<ul style="list-style-type: none"> <li>Ethan Stuckmayer and Robert Mansolillo, DLCD</li> <li>Sylvia</li> <li>RAC members</li> </ul>
1:40 – 1:50 pm	<b>Public Comment</b>	<ul style="list-style-type: none"> <li>Members of the public</li> </ul>
1:50 – 2:00 pm	<b>Next Steps and Wrap Up</b>	<ul style="list-style-type: none"> <li>Sylvia</li> <li>Ethan</li> <li>Commissioner Hallova</li> <li>Jerry Lidz</li> </ul>

Upcoming Rulemaking Advisory Committee (RAC) and Technical Advisory Committee (TAC) Meetings	
Date/Time	Meeting
January 29, 2020	Infrastructure Base Time Extension Request TAC Meeting #1
February 4, 2020	Middle Housing Model Code TAC Meeting #2
February 6, 2020	Housing Production Strategy TAC Meeting #1
February 27, 2020: 11am – 3pm	RAC Meeting #4
April 2, 2020: 11am – 3pm	RAC Meeting #5

**Community Conversation #2**  
 Medford, Oregon  
 Medford Public Library  
 December 10, 2019

**Summary**

- Hopes: that we would listen to people actually in the affordability crisis (ex/homeless); SDCs would take on a flexible, form-based approach, that can change as markets change; State resources for planning work, technical assistance dispersed promptly
- Concerns: infrastructure for unincorporated areas, clarity around enforcement of statutes and rules; siting and design standards; keeping leaders committed to the process

**Table 1**

Hopes	Concerns	Questions
More options, more density at the local level	Keeping leaders committed	Will legislative intent get watered down in the rulemaking process?
In this process, listen to people actually in the affordability crisis	Cities will resist	What is the enforcement behind the housing production strategies?
Keep voices of those struggling in the picture		How will success be defined? Benchmarks?

**Table 2**

Hopes	Concerns	Questions
Hope that reporting can be streamlined (HB 2003)	Recently-adopted cottage cluster code allows for less units than bill says (800 vs. 1200) [City of Medford]	HB 2003: Could regional HNA replace an individual HNA?
	Siting and design regulations, locational concerns	
	Renewable energy concerns	

**Table 3**

Hopes	Concerns	Questions
SDCs need to be tied to bedrooms, bathrooms, and take on a form-based model	We may be approaching from too broad a point-of-view rather than being creative, out-of-the-box. Model code may not understand roadblocks yet.	Can we provide data to view housing trends, affordability trends, and what people actually want to buy?

	SDCs need to be managed in order to be affordable for developers.	
Re-structuring of SDCs, simplify them, make them more flexible, affordable for developers	Cautious of over-regulation (ex: UGB, environmental regs)	What can we do in this rulemaking process to close affordability gap this time around? For all people, at all incomes, at all stages in life? Not just increase housing supply?
Hope in the rulemaking		Can we re-structure SDCs?
Hope that we can educate communities and cities on the impact of the bills.		How do we reach more under-represented people with this information?
Funding for technical assistance and consultants for HNAs.		
Creating a roadmap with recommendations for tools and resources to get through HNAs for cities, laid out from beginning to end. Hope that this addresses developer's needs		
Emphasis on funding and resources for HNA		
Form-based code that can be flexible and shifted as markets change		
HNAs need to be straightforward		

**Table 4**

Hopes	Concerns	Questions
Maximize land to bring unit cost down	Price of land is not adjustable through policy	Ashland: would they need to re-adopt codes if they move forward early? ADU parking requirements?
Ashland has many tools to incent housing. (Ex: annexation ordinance, bonuses for affordability, zoning process relaxed for affordability)	Townhomes are difficult to sell in Central Point. <ul style="list-style-type: none"> <li>White City townhomes for \$200,000.</li> <li>Eagle Point lot bare land is \$40,000</li> </ul>	Will development codes retroactively grandfather in existing duplexes if they are torn down and rebuilt?
Regionalize housing/land use	<ul style="list-style-type: none"> <li>10% increase in development costs year over year</li> </ul>	What about elderly populations? Will there be renewed demand for middle housing types for them?



Involve counties to regulate land use locally	<u>Building department</u> Creating undue delay and expense	How does this tie into SB 608? Are there additional regulations to come?
Affordable housing on public lands is a great incentive for cities to build subsidized units	<u>County Issues</u> <ul style="list-style-type: none"> <li>• Connection to City services</li> <li>• Unincorporated urbanized areas</li> <li>• Annexed into City to access City infrastructure</li> </ul>	What does the bill mean as “unreasonable cost or delay”?
	<u>SB 100</u> Statewide planning program’s implications on housing haven’t been addressed	Will rules be adopted to put a cap on review timing?
	Sale of middle housing to landlords/investors is quick, high demand to purchase.	

**Table 5**

<b>Hopes</b>	<b>Concerns</b>	<b>Questions</b>
Helps with NIMBYism	Housing production strategies need most work. They are not a product for missing middle housing. There’s a lack of innovative financial tools	BOLI requirements with commercial construction (5 <sup>th</sup> floor triggered). Does this allow for local definition?
HNA data becomes more reliable, accessible, especially for rentals	Allowing duplexes anywhere is not harmless	Alternative forms of tenure such as: boarding houses, single room occupancy. Will there be building code changes?
Tax allocation revenue	Located with proximity to services can be a double-edged sword. This lets single-family neighborhoods off the hook.	
Loan options for buyers of middle housing		
Connection between missing middle and building codes. Ex: sprinkler tax credit (Minnesota)		
Decrease parking requirements		
Prioritize locating housing on transit routes		
Workforce development for building trades, which is currently under-capacity		

**Table 6**

<b>Hopes</b>	<b>Concerns</b>	<b>Questions</b>
Homes for everyone	Clear siting for tiny houses	Tools in HPSs. Will they really be used?
Local control – allow flexibility from Salem	Enforcement of statute and rules	How “real” will regional housing #s be?
Housing for those making less	Local governments not looking at alternative futures (scenario planning)	Will regional housing “allocations” be enforced?
State helps local governments with planning	Too much money spent on long range planning	How much of the homelessness population are local governments tracking?
More legislation encouraging density	Tax abatement for companies, not home builders	
Minimum density requirements for HPS		
Other required tools for HPS. ex: density bonuses, inclusionary zoning		
DLCD rules on HPSs will include private sector involvement		
Will provide significant # of smaller, affordable units		
Notify the affected property owners		

# Enrolled House Bill 2003

Sponsored by Representative KOTEK; Representatives FAHEY, KENY-GUYER, WILDE

CHAPTER .....

AN ACT

Relating to buildings; creating new provisions; amending ORS 197.296, 197.299, 197.303, 197.319, 197.320, 215.416, 215.441, 227.175, 227.500 and 455.062 and section 1, chapter 47, Oregon Laws 2018, and section 3, chapter 97, Oregon Laws 2019 (Enrolled Senate Bill 39); and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. (1) As used in this section:**

(a) “Area median income” means the median income for households established by the United States Department of Housing and Urban Development.

(b) “Existing housing stock” means housing, by affordability level and type, actually constructed in a city or Metro.

(c) “High income” means above 120 percent of the area median income.

(d) “Housing shortage” means the difference between the estimated housing units of different affordability levels and housing types needed to accommodate the existing population and the existing housing stock, measured in dwelling units.

(e) “Low income” means income above 50 percent and at or below 80 percent of the area median income.

(f) “Metro” means a metropolitan service district organized under ORS chapter 268.

(g) “Moderate income” means income above 80 percent and at or below 120 percent of the area median income.

(h) “Region” has the meaning given that term in ORS 284.752.

(i) “Very low income” means income at or below 50 percent of the area median income.

(2) The Housing and Community Services Department, in coordination with the Department of Land Conservation and Development and the Oregon Department of Administrative Services, shall develop a methodology for calculating:

(a) A regional housing needs analysis that identifies the total number of housing units necessary to accommodate anticipated populations in a region over the next 20 years based on:

(A) Trends in density and in the average mix of housing types of urban residential development;

(B) Demographic and population trends;

(C) Economic trends and cycles; and

(D) Equitable distribution of publicly supported housing within a region.

(b) An estimate of existing housing stock of each city and Metro.

(c) A housing shortage analysis for each city and Metro.

(d) An estimate of the number of housing units necessary to accommodate anticipated population growth over the next 20 years for each city and Metro.

(3) The methodologies for calculating the regional housing needs analysis, the estimate of existing housing stock, the housing shortage analysis and the estimate of housing necessary to accommodate growth that are developed under subsection (2) of this section must classify housing by:

(a) Housing type, including attached and detached single-family housing, multifamily housing and manufactured dwellings or mobile homes; and

(b) Affordability, by housing that is affordable to households with:

(A) Very low income;

(B) Low income;

(C) Moderate income; or

(D) High income.

(4) No later than September 1, 2020, the Housing and Community Services Department, in coordination with the Department of Land Conservation and Development and the Oregon Department of Administrative Services, shall conduct for each region a regional housing needs analysis and, for each city and Metro, shall estimate existing housing stock, conduct a housing shortage analysis and estimate the housing necessary to accommodate growth.

(5) In developing the methodologies and conducting the analyses under this section, the Housing and Community Services Department may:

(a) Consult or contract with subject matter experts, cities and Metro, regional solutions centers described in ORS 284.754 (2) and other jurisdictions that have created or conducted regional housing needs analyses.

(b) Consider the most recent consolidated population forecast produced by the Portland State University Population Research Center in making any relevant calculation or forecast.

(c) Consider any other relevant existing analyses, data and other information collected or produced by state agencies or public entities.

(d) Make changes to the regional boundaries in order to make regions more accurately align with shared employment, transportation or housing market dynamics.

**SECTION 2.** (1) No later than March 1, 2021, the Housing and Community Services Department, in consultation with the Department of Land Conservation and Development and the Oregon Department of Administrative Services, shall submit a report, in the manner provided in ORS 192.245 to an appropriate committee of the Legislative Assembly, that summarizes the findings of the regional housing needs analysis, estimate of housing stock, housing shortage analysis and estimate of housing necessary to accommodate growth conducted under section 1 (4) of this 2019 Act.

(2) No later than March 1, 2021, the Department of Land Conservation and Development, in consultation with the Oregon Department of Administrative Services and the Housing and Community Services Department, shall submit a report, in the manner provided in ORS 192.245, to an appropriate committee of the Legislative Assembly that evaluates:

(a) Whether a regional housing needs analysis and housing shortage analysis described in section 1 of this 2019 Act could appropriately allocate among the cities or local governments in a region the housing shortage described;

(b) How a regional housing needs analysis and housing shortage analysis may compare to existing assessments of housing need and capacity conducted by local governments under ORS 197.296 (3) and (10) in terms of:

(A) Cost and cost effectiveness;

(B) Reliability and accuracy;

(C) Repeatability; and

(D) Predictability;

(c) How a regional housing needs analysis and housing shortage analysis may relate to statewide planning goals related to housing and any rules and policies adopted pursuant to these goals and ORS 197.295 to 197.314;

(d) Whether different boundaries would be more appropriate for defining regions within the regional housing needs analysis based on:

(A) Relevance of data in appropriately defining a commuting, employment or housing market; or

(B) Ease or cost of collecting or analyzing data;

(e) Other ways in which the regional housing needs analysis or housing shortage analysis could be improved; and

(f) Whether the regional housing needs analysis, or an improved version, could serve as an acceptable methodology statewide for land use planning relating to housing.

(3) In preparing the report required under subsection (2) of this section, the Department of Land Conservation and Development may consult or contract with other state agencies, subject matter experts, private firms, local governments, regional solutions centers described in ORS 284.754 (2) and other jurisdictions that have created or conducted regional housing needs analyses.

**SECTION 3.** Sections 4 to 6 of this 2019 Act are added to and made a part of ORS 197.295 to 197.314.

**SECTION 4.** (1) A city with a population greater than 10,000 shall develop and adopt a housing production strategy under this section no later than one year after:

(a) The city's deadline for completing a housing capacity analysis under ORS 197.296 (2)(a);

(b) The city's deadline for completing a housing capacity analysis under ORS 197.296 (10)(b); or

(c) A date scheduled by the Land Conservation and Development Commission following the allocation of housing capacity to the city by a metropolitan service district under ORS 197.299 (2)(d).

(2) 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 development within the city to address a housing need identified under ORS 197.296 (6) for the most recent 20-year period described in ORS 197.296 (2)(b). Actions under this subsection may include:

(a) The reduction of financial and regulatory impediments to developing needed housing, including removing or easing approval standards or procedures for needed housing at higher densities or that is affordable;

(b) The creation of financial and regulatory incentives for development of needed housing, including creating incentives for needed housing at higher densities or that is affordable; and

(c) The development of a plan to access resources available at local, regional, state and national levels to increase the availability and affordability of needed housing.

(3) In creating a housing production strategy, a city shall review and consider:

(a) Socioeconomic and demographic characteristics of households living in existing needed housing;

(b) Market conditions affecting the provision of needed housing;

(c) Measures already adopted by the city to promote the development of needed housing;

(d) Existing and expected barriers to the development of needed housing; and

(e) For each action the city includes in its housing production strategy:

(A) The schedule for its adoption;

(B) The schedule for its implementation;

(C) Its expected magnitude of impact on the development of needed housing; and

(D) The time frame over which it is expected to impact needed housing.

(4) The housing production strategy must include within its index a copy of the city's most recently completed survey under section 1 (2), chapter 47, Oregon Laws 2018.

(5) The adoption of a housing production strategy is not a land use decision and is not subject to appeal or review except as provided in section 5 of this 2019 Act.

**SECTION 5.** (1) No later than 20 days after a city's adoption or amendment of a housing production strategy under section 4 of this 2019 Act, a city shall submit the adopted strategy or amended strategy to the Department of Land Conservation and Development.

(2) The submission under subsection (1) of this section must include copies of:

(a) The signed decision adopting the housing production strategy or amended strategy;

(b) The text of the housing production strategy clearly indicating any amendments to the most recent strategy submitted under this section;

(c) A brief narrative summary of the housing production strategy; and

(d) The information reviewed and considered under section 6 (2) of this 2019 Act.

(3) On the same day the city submits notice of the housing production strategy or amended strategy, the city shall provide a notice to persons that participated in the proceedings that led to the adoption of the strategy and requested notice in writing.

(4) Within 10 days of receipt of the submission under subsection (1) of this section, the department shall provide notice to persons described under ORS 197.615 (3).

(5) The notices given under subsections (3) and (4) of this section must state:

(a) How and where materials described in subsection (2) of this section may be freely obtained;

(b) That comments on the strategy may be submitted to the department within 45 days after the department has received the submission; and

(c) That there is no further right of appeal.

(6) Based upon criteria adopted by the Land Conservation and Development Commission, including any criteria adopted under section 6 (2) of this 2019 Act, the department shall, within 120 days after receiving the submission under subsection (1) of this section:

(a) Approve the housing production strategy;

(b) Approve the housing production strategy, subject to further review and actions under section 6 (2) of this 2019 Act; or

(c) Remand the housing production strategy for further modification as identified by the department.

(7) A determination by the department under subsection (6) of this section is not a land use decision and is final and not subject to appeal.

**SECTION 6.** (1) The Land Conservation and Development Commission, in consultation with the Housing and Community Services Department, shall adopt criteria for reviewing and identifying cities with a population greater than 10,000 that have not sufficiently:

(a) Achieved production of needed housing within their jurisdiction; or

(b) Implemented a housing production strategy adopted under section 4 of this 2019 Act.

(2) The criteria adopted by the commission under subsection (1) of this section may include the city's:

(a) Unmet housing need as described in ORS 197.296 (6);

(b) Unmet housing need in proportion to the city's population;

(c) Percentage of households identified as severely rent burdened as described in section 1, chapter 47, Oregon Laws 2018;

(d) Recent housing development;

(e) Recent adoption of a housing production strategy under section 4 of this 2019 Act or adoption of actions pursuant to a housing production strategy;

(f) Recent or frequent previous identification by the Department of Land Conservation and Development under this section; or

(g) Other attributes that the commission considers relevant.

(3) The Department of Land Conservation and Development may review cities under the criteria adopted under subsection (2) of this section for the purposes of prioritizing actions by the department, including:

- (a) Awarding available technical or financial resources;
- (b) Providing enhanced review and oversight of the city's housing production strategy;
- (c) Requiring a report and explanation if a city does not implement an action within the approximate time frame scheduled within a housing production strategy;
- (d) Entering into agreements with the city relating to the city's modification or implementation of its housing production strategy; or
- (e) Petitioning the commission to act under ORS 197.319 to 197.335 to require the city to comply with ORS 197.295 to 197.314 or statewide land use planning goals related to housing or urbanization.

**SECTION 7.** No later than December 31, 2019, the Land Conservation and Development Commission shall adopt a schedule by which metropolitan service districts and cities described in ORS 197.296 (2)(a)(B) and (10)(c)(B) shall demonstrate sufficient buildable lands. Dates in the schedule may not be earlier than two years following the commission's creation of rules implementing sections 4 to 6 of this 2019 Act and the amendments to ORS 197.296 and 197.299 by sections 8 and 9 of this 2019 Act.

**SECTION 8.** ORS 197.296 is amended to read:

197.296. (1)(a) The provisions of subsections (2) to (9) of this section apply to metropolitan service district regional framework plans and local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has a population of 25,000 or more.

(b) The Land Conservation and Development Commission may establish a set of factors under which additional cities are subject to the provisions of this section. In establishing the set of factors required under this paragraph, the commission shall consider the size of the city, the rate of population growth of the city or the proximity of the city to another city with a population of 25,000 or more or to a metropolitan service district.

(2)(a) *[At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the comprehensive plan or regional framework plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use,]* A local government shall demonstrate that its comprehensive plan or regional framework plan provides sufficient buildable lands within the urban growth boundary established pursuant to statewide planning goals to accommodate estimated housing needs for 20 years:

(A) At periodic review under ORS 197.628 to 197.651;

(B) As scheduled by the commission:

(i) At least once each eight years for local governments that are not within a metropolitan service district; or

(ii) At least once each six years for a metropolitan service district; or

(C) At any other legislative review of the comprehensive plan or regional framework plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use.

(b) The 20-year period shall commence on the date initially scheduled for completion of the *[periodic or legislative]* review **under paragraph (a) of this subsection.**

(3) In performing the duties under subsection (2) of this section, a local government shall:

(a) Inventory the supply of buildable lands within the urban growth boundary and determine the housing capacity of the buildable lands; and

(b) Conduct an analysis of housing need by type and density range, in accordance with ORS 197.303 and statewide planning goals and rules relating to housing, to determine the number of units and amount of land needed for each needed housing type for the next 20 years.

(4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, "buildable lands" includes:

- (A) Vacant lands planned or zoned for residential use;
- (B) Partially vacant lands planned or zoned for residential use;
- (C) Lands that may be used for a mix of residential and employment uses under the existing planning or zoning; and

(D) Lands that may be used for residential infill or redevelopment.

(b) For the purpose of the inventory and determination of housing capacity described in subsection (3)(a) of this section, the local government must demonstrate consideration of:

(A) The extent that residential development is prohibited or restricted by local regulation and ordinance, state law and rule or federal statute and regulation;

(B) A written long term contract or easement for radio, telecommunications or electrical facilities, if the written contract or easement is provided to the local government; and

(C) The presence of a single family dwelling or other structure on a lot or parcel.

(c) Except for land that may be used for residential infill or redevelopment, a local government shall create a map or document that may be used to verify and identify specific lots or parcels that have been determined to be buildable lands.

(5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of housing capacity and need pursuant to subsection (3) of this section must be based on data relating to land within the urban growth boundary that has been collected since the last *[periodic]* review *[or]* **under subsection (2)(a)(B) of this section** *[five years, whichever is greater]*. The data shall include:

(A) The number, density and average mix of housing types of urban residential development that have actually occurred;

(B) Trends in density and average mix of housing types of urban residential development;

(C) Demographic and population trends;

(D) Economic trends and cycles; and

(E) The number, density and average mix of housing types that have occurred on the buildable lands described in subsection (4)(a) of this section.

(b) A local government shall make the determination described in paragraph (a) of this subsection using a shorter time period than the time period described in paragraph (a) of this subsection if the local government finds that the shorter time period will provide more accurate and reliable data related to housing capacity and need. The shorter time period may not be less than three years.

(c) A local government shall use data from a wider geographic area or use a time period for economic cycles and trends longer than the time period described in paragraph (a) of this subsection if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to paragraph (a) of this subsection. The local government must clearly describe the geographic area, time frame and source of data used in a determination performed under this paragraph.

(6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than the housing capacity determined pursuant to subsection (3)(a) of this section, the local government shall take one or more of the following actions to accommodate the additional housing need:

(a) Amend its urban growth boundary to include sufficient buildable lands to accommodate housing needs for the next 20 years. As part of this process, the local government shall consider the effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include sufficient land reasonably necessary to accommodate the siting of new public school facilities. The need and inclusion of lands for new public school facilities shall be a coordinated process between the affected public school districts and the local government that has the authority to approve the urban growth boundary;

(b) Amend its comprehensive plan, regional framework plan, functional plan or land use regulations to include new measures that demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years without



expansion of the urban growth boundary. A local government or metropolitan service district that takes this action shall monitor and record the level of development activity and development density by housing type following the date of the adoption of the new measures; or

(c) Adopt a combination of the actions described in paragraphs (a) and (b) of this subsection.

(7) Using the analysis conducted under subsection (3)(b) of this section, the local government shall determine the overall average density and overall mix of housing types at which residential development of needed housing types must occur in order to meet housing needs over the next 20 years. If that density is greater than the actual density of development determined under subsection (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types determined under subsection (5)(a)(A) of this section, the local government, as part of its periodic review, shall adopt measures that demonstrably increase the likelihood that residential development will occur at the housing types and density and at the mix of housing types required to meet housing needs over the next 20 years.

(8)(a) A local government outside a metropolitan service district that takes any actions under subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to 197.314.

(b) The local government shall determine the density and mix of housing types anticipated as a result of actions taken under subsections (6) and (7) of this section and monitor and record the actual density and mix of housing types achieved. The local government shall compare actual and anticipated density and mix. The local government shall submit its comparison to the commission at the next [periodic review or at the next legislative] review of its urban growth boundary[, *whichever comes first*] **under subsection (2)(a) of this section.**

(9) In establishing that actions and measures adopted under subsections (6) and (7) of this section demonstrably increase the likelihood of higher density residential development, the local government shall at a minimum ensure that land zoned for needed housing is in locations appropriate for the housing types identified under subsection (3) of this section and is zoned at density ranges that are likely to be achieved by the housing market using the analysis in subsection (3) of this section. Actions or measures, or both, may include but are not limited to:

(a) Increases in the permitted density on existing residential land;

(b) Financial incentives for higher density housing;

(c) Provisions permitting additional density beyond that generally allowed in the zoning district in exchange for amenities and features provided by the developer;

(d) Removal or easing of approval standards or procedures;

(e) Minimum density ranges;

(f) Redevelopment and infill strategies;

(g) Authorization of housing types not previously allowed by the plan or regulations;

(h) Adoption of an average residential density standard; and

(i) Rezoning or redesignation of nonresidential land.

(10)(a) The provisions of this subsection apply to local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has a population of less than 25,000.

(b) [At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the comprehensive plan that requires the application of a statewide planning goal relating to buildable lands for residential use,] **As required under paragraph (c) of this subsection,** a city shall, according to rules of the commission:

(A) Determine the estimated housing needs within the jurisdiction for the next 20 years;

(B) Inventory the supply of buildable lands available within the urban growth boundary to accommodate the estimated housing needs determined under this subsection; and

(C) Adopt measures necessary to accommodate the estimated housing needs determined under this subsection.

**(c) The actions required under paragraph (b) of this subsection shall be undertaken:**

- (A) At periodic review pursuant to ORS 197.628 to 197.651;
- (B) On a schedule established by the commission for cities with a population greater than 10,000, not to exceed once each eight years; or
- (C) At any other legislative review of the comprehensive plan that requires the application of a statewide planning goal relating to buildable lands for residential use.

[(c)] (d) For the purpose of the inventory described in this subsection, “buildable lands” includes those lands described in subsection (4)(a) of this section.

**SECTION 8a. If House Bill 2001 becomes law, section 8 of this 2019 Act (amending ORS 197.296) is repealed and ORS 197.296, as amended by section 5, chapter \_\_\_\_\_, Oregon Laws 2019 (Enrolled House Bill 2001), is amended to read:**

197.296. (1)(a) The provisions of subsections (2) to (9) of this section apply to metropolitan service district regional framework plans and local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has a population of 25,000 or more.

(b) The Land Conservation and Development Commission may establish a set of factors under which additional cities are subject to the provisions of this section. In establishing the set of factors required under this paragraph, the commission shall consider the size of the city, the rate of population growth of the city or the proximity of the city to another city with a population of 25,000 or more or to a metropolitan service district.

(2)(a) [At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the comprehensive plan or regional framework plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use,] A local government shall demonstrate that its comprehensive plan or regional framework plan provides sufficient buildable lands within the urban growth boundary established pursuant to statewide planning goals to accommodate estimated housing needs for 20 years:

- (A) At periodic review under ORS 197.628 to 197.651;
- (B) As scheduled by the commission:
  - (i) At least once each eight years for local governments that are not within a metropolitan service district; or
  - (ii) At least once each six years for a metropolitan service district; or
- (C) At any other legislative review of the comprehensive plan or regional framework plan that concerns the urban growth boundary and requires the application of a statewide planning goal relating to buildable lands for residential use.

(b) The 20-year period shall commence on the date initially scheduled for completion of the [periodic or legislative] review **under paragraph (a) of this subsection.**

(3) In performing the duties under subsection (2) of this section, a local government shall:

(a) Inventory the supply of buildable lands within the urban growth boundary and determine the housing capacity of the buildable lands; and

(b) Conduct an analysis of existing and projected housing need by type and density range, in accordance with all factors under ORS 197.303 and statewide planning goals and rules relating to housing, to determine the number of units and amount of land needed for each needed housing type for the next 20 years.

(4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, “buildable lands” includes:

- (A) Vacant lands planned or zoned for residential use;
- (B) Partially vacant lands planned or zoned for residential use;
- (C) Lands that may be used for a mix of residential and employment uses under the existing planning or zoning; and
- (D) Lands that may be used for residential infill or redevelopment.

(b) For the purpose of the inventory and determination of housing capacity described in subsection (3)(a) of this section, the local government must demonstrate consideration of:

(A) The extent that residential development is prohibited or restricted by local regulation and ordinance, state law and rule or federal statute and regulation;

(B) A written long term contract or easement for radio, telecommunications or electrical facilities, if the written contract or easement is provided to the local government; and

(C) The presence of a single family dwelling or other structure on a lot or parcel.

(c) Except for land that may be used for residential infill or redevelopment, a local government shall create a map or document that may be used to verify and identify specific lots or parcels that have been determined to be buildable lands.

(5)(a) Except as provided in paragraphs (b) and (c) of this subsection, the determination of housing capacity pursuant to subsection (3)(a) of this section must be based on data relating to land within the urban growth boundary that has been collected since the last review [*or six years, whichever is greater*] **under subsection (2)(a)(B) of this section.** The data shall include:

(A) The number, density and average mix of housing types of urban residential development that have actually occurred;

(B) Trends in density and average mix of housing types of urban residential development;

(C) Market factors that may substantially impact future urban residential development; and

(D) The number, density and average mix of housing types that have occurred on the buildable lands described in subsection (4)(a) of this section.

(b) A local government shall make the determination described in paragraph (a) of this subsection using a shorter time period than the time period described in paragraph (a) of this subsection if the local government finds that the shorter time period will provide more accurate and reliable data related to housing capacity. The shorter time period may not be less than three years.

(c) A local government shall use data from a wider geographic area or use a time period longer than the time period described in paragraph (a) of this subsection if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to paragraph (a) of this subsection. The local government must clearly describe the geographic area, time frame and source of data used in a determination performed under this paragraph.

(6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than the housing capacity determined pursuant to subsection (3)(a) of this section, the local government shall take one or both of the following actions to accommodate the additional housing need:

(a) Amend its urban growth boundary to include sufficient buildable lands to accommodate housing needs for the next 20 years. As part of this process, the local government shall consider the effects of measures taken pursuant to paragraph (b) of this subsection. The amendment shall include sufficient land reasonably necessary to accommodate the siting of new public school facilities. The need and inclusion of lands for new public school facilities shall be a coordinated process between the affected public school districts and the local government that has the authority to approve the urban growth boundary.

(b) Amend its comprehensive plan, regional framework plan, functional plan or land use regulations to include new measures that demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years without expansion of the urban growth boundary. A local government or metropolitan service district that takes this action shall adopt findings regarding the density expectations assumed to result from measures adopted under this paragraph based upon the factors listed in ORS 197.303 (2) and data in subsection (5)(a) of this section. The density expectations may not project an increase in residential capacity above achieved density by more than three percent without quantifiable validation of such departures. For a local government located outside of a metropolitan service district, a quantifiable validation must demonstrate that the assumed housing capacity has been achieved in areas that are zoned to allow no greater than the same authorized density level within the local jurisdiction or a jurisdiction in the same region. For a metropolitan service district, a quantifiable validation must demonstrate that the assumed housing capacity has been achieved in areas that are

zoned to allow no greater than the same authorized density level within the metropolitan service district.

(c) As used in this subsection, “authorized density level” has the meaning given that term in ORS 227.175.

(7) Using the housing need analysis conducted under subsection (3)(b) of this section, the local government shall determine the overall average density and overall mix of housing types at which residential development of needed housing types must occur in order to meet housing needs over the next 20 years. If that density is greater than the actual density of development determined under subsection (5)(a)(A) of this section, or if that mix is different from the actual mix of housing types determined under subsection (5)(a)(A) of this section, the local government, as part of its periodic review, shall adopt measures that demonstrably increase the likelihood that residential development will occur at the housing types and density and at the mix of housing types required to meet housing needs over the next 20 years.

(8)(a) A local government outside a metropolitan service district that takes any actions under subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use regulations comply with goals and rules adopted by the commission and implement ORS 197.295 to 197.314.

(b) A local government shall determine the density and mix of housing types anticipated as a result of actions taken under subsections (6) and (7) of this section and monitor and record the actual density and mix of housing types achieved following the adoption of these actions. The local government shall compare actual and anticipated density and mix. The local government shall submit its comparison to the commission at the next *[periodic review or at the next legislative]* review of its urban growth boundary, *whichever comes first* **under subsection (2)(a) of this section.**

(9) In establishing that actions and measures adopted under subsections (6) and (7) of this section demonstrably increase the likelihood of higher density residential development, the local government shall at a minimum ensure that land zoned for needed housing is in locations appropriate for the housing types identified under subsection (3) of this section, is zoned at density ranges that are likely to be achieved by the housing market using the analysis in subsection (3) of this section and is in areas where sufficient urban services are planned to enable the higher density development to occur over the 20-year period. Actions or measures, or both, may include but are not limited to:

- (a) Increases in the permitted density on existing residential land;
- (b) Financial incentives for higher density housing;
- (c) Provisions permitting additional density beyond that generally allowed in the zoning district in exchange for amenities and features provided by the developer;
- (d) Removal or easing of approval standards or procedures;
- (e) Minimum density ranges;
- (f) Redevelopment and infill strategies;
- (g) Authorization of housing types not previously allowed by the plan or regulations;
- (h) Adoption of an average residential density standard; and
- (i) Rezoning or redesignation of nonresidential land.

(10)(a) The provisions of this subsection apply to local government comprehensive plans for lands within the urban growth boundary of a city that is located outside of a metropolitan service district and has a population of less than 25,000.

(b) *[At periodic review pursuant to ORS 197.628 to 197.651 or at any other legislative review of the comprehensive plan that requires the application of a statewide planning goal relating to buildable lands for residential use.]* **As required under paragraph (c) of this subsection,** a city shall, according to rules of the commission:

- (A) Determine the estimated housing needs within the jurisdiction for the next 20 years;
- (B) Inventory the supply of buildable lands available within the urban growth boundary to accommodate the estimated housing needs determined under this subsection; and
- (C) Adopt measures necessary to accommodate the estimated housing needs determined under this subsection.

- (c) **The actions required under paragraph (b) of this subsection shall be undertaken:**
  - (A) **At periodic review pursuant to ORS 197.628 to 197.651;**
  - (B) **On a schedule established by the commission for cities with a population greater than 10,000, not to exceed once each eight years; or**
  - (C) **At any other legislative review of the comprehensive plan that requires the application of a statewide planning goal relating to buildable lands for residential use.**

[(c)] (d) For the purpose of the inventory described in this subsection, “buildable lands” includes those lands described in subsection (4)(a) of this section.

**SECTION 9.** ORS 197.299 is amended to read:

197.299. (1) A metropolitan service district organized under ORS chapter 268 shall complete the inventory, determination and analysis required under ORS 197.296 (3) not later than six years after completion of the previous inventory, determination and analysis.

(2)(a) The metropolitan service district shall take such action as necessary under ORS 197.296 (6)(a) to accommodate one-half of a 20-year buildable land supply determined under ORS 197.296 (3) within one year of completing the analysis.

(b) The metropolitan service district shall take all final action under ORS 197.296 (6)(a) necessary to accommodate a 20-year buildable land supply determined under ORS 197.296 (3) within two years of completing the analysis.

(c) The metropolitan service district shall take action under ORS 197.296 (6)(b), within one year after the analysis required under ORS 197.296 (3)(b) is completed, to provide sufficient buildable land within the urban growth boundary to accommodate the estimated housing needs for 20 years from the time the actions are completed.

(d) **The metropolitan service district shall consider and adopt new measures that the governing body deems appropriate under ORS 197.296 (6)(b) and shall allocate any housing capacity that is not accommodated under this section to be accommodated by the application of ORS 197.296 (6)(b) by cities within the metropolitan service district with a population greater than 10,000.**

(e) **Cities to which housing capacity is allocated under paragraph (d) of this subsection shall take steps, at least once every six years as scheduled by the Land Conservation and Development Commission, to demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years as required by ORS 197.296 (6)(b).**

(3) The [*Land Conservation and Development*] commission may grant an extension to the time limits of subsection (2) of this section if the Director of the Department of Land Conservation and Development determines that the metropolitan service district has provided good cause for failing to meet the time limits.

(4)(a) The metropolitan service district shall establish a process to expand the urban growth boundary to accommodate a need for land for a public school that cannot reasonably be accommodated within the existing urban growth boundary. The metropolitan service district shall design the process to:

(A) Accommodate a need that must be accommodated between periodic analyses of urban growth boundary capacity required by subsection (1) of this section; and

(B) Provide for a final decision on a proposal to expand the urban growth boundary within four months after submission of a complete application by a large school district as defined in ORS 195.110.

(b) At the request of a large school district, the metropolitan service district shall assist the large school district to identify school sites required by the school facility planning process described in ORS 195.110. A need for a public school is a specific type of identified land need under ORS 197.298 (3).

(5) Three years after completing its most recent demonstration of sufficient buildable lands under ORS 197.296, a metropolitan service district may, on a single occasion, revise the determination

and analysis required as part of the demonstration for the purpose of considering an amendment to the metropolitan service district's urban growth boundary, provided:

(a) The metropolitan service district has entered into an intergovernmental agreement and has designated rural reserves and urban reserves under ORS 195.141 and 195.145 with each county located within the district;

(b) The commission has acknowledged the rural reserve and urban reserve designations described in paragraph (a) of this subsection;

(c) One or more cities within the metropolitan service district have proposed a development that would require expansion of the urban growth boundary;

(d) The city or cities proposing the development have provided evidence to the metropolitan service district that the proposed development would provide additional needed housing to the needed housing included in the most recent determination and analysis;

(e) The location chosen for the proposed development is adjacent to the city proposing the development; and

(f) The location chosen for the proposed development is located within an area designated and acknowledged as an urban reserve.

(6)(a) If a metropolitan service district, after revising its most recent determination and analysis pursuant to subsection (5) of this section, concludes that an expansion of its urban growth boundary is warranted, the metropolitan service district may take action to expand its urban growth boundary in one or more locations to accommodate the proposed development, provided the urban growth boundary expansion does not exceed a total of 1,000 acres.

(b) A metropolitan service district that expands its urban growth boundary under this subsection:

(A) Must adopt the urban growth boundary expansion not more than four years after completing its most recent demonstration of sufficient buildable lands under ORS 197.296; and

(B) Is exempt from the boundary location requirements described in the statewide land use planning goals relating to urbanization.

**SECTION 10.** ORS 197.303 is amended to read:

197.303. (1) As used in ORS [197.307] **197.295 to 197.314**, "needed housing" means all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, as those terms are defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a. "Needed housing" includes the following housing types:

(a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;

(b) Government assisted housing;

(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

(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

(e) Housing for farmworkers.

(2) Subsection (1)(a) and (d) of this section does not apply to:

(a) A city with a population of less than 2,500.

(b) A county with a population of less than 15,000.

(3) A local government may take an exception under ORS 197.732 to the definition of "needed housing" in subsection (1) of this section in the same manner that an exception may be taken under the goals.

**SECTION 10a.** If House Bill 2001 becomes law, section 10 of this 2019 Act (amending ORS 197.303) is repealed and ORS 197.303, as amended by section 6, chapter \_\_\_\_\_, Oregon Laws 2019 (Enrolled House Bill 2001), is amended to read:

197.303. (1) As used in ORS 197.295 to 197.314, “needed housing” means all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, as those terms are defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a. “Needed housing” includes the following housing types:

(a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;

(b) Government assisted housing;

(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

(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

(e) Housing for farmworkers.

(2) For the purpose of estimating housing needs, as described in ORS 197.296 (3)(b), a local government shall use the population projections prescribed by ORS 195.033 or 195.036 and shall consider and adopt findings related to changes in each of the following factors since the last [*periodic or legislative review or six years, whichever is greater,*] **review under ORS 197.296 (2)(a)(B)** and the projected future changes in these factors over a 20-year planning period:

(a) Household sizes;

(b) Household demographics [*in terms of age, gender, race or other established demographic category*];

(c) Household incomes;

(d) Vacancy rates; and

(e) Housing costs.

(3) A local government shall make the estimate described in subsection (2) of this section using a shorter time period than since the last [*periodic or legislative review or six years, whichever is greater,*] **review under ORS 197.296 (2)(a)(B)** if the local government finds that the shorter time period will provide more accurate and reliable data related to housing need. The shorter time period may not be less than three years.

(4) A local government shall use data from a wider geographic area or use a time period longer than the time period described in subsection (2) of this section if the analysis of a wider geographic area or the use of a longer time period will provide more accurate, complete and reliable data relating to trends affecting housing need than an analysis performed pursuant to subsection (2) of this section. The local government must clearly describe the geographic area, time frame and source of data used in an estimate performed under this subsection.

(5) Subsection (1)(a) and (d) of this section does not apply to:

(a) A city with a population of less than 2,500.

(b) A county with a population of less than 15,000.

(6) A local government may take an exception under ORS 197.732 to the definition of “needed housing” in subsection (1) of this section in the same manner that an exception may be taken under the goals.

**SECTION 11.** ORS 197.319 is amended to read:

197.319. (1) Before a person may request adoption of an enforcement order under ORS 197.320, the person shall:

(a) Present the reasons, in writing, for such an order to the affected local government; and

(b) Request:

(A) Revisions to the local comprehensive plan, land use regulations, special district cooperative or urban service agreement or decision-making process which is the basis for the order; or

(B) That an action be taken regarding the local comprehensive plan, land use regulations, special district agreement, **housing production strategy** or decision-making process that is the basis for the order.

(2)(a) The local government or special district shall issue a written response to the request within 60 days of the date the request is mailed to the local government or special district.

(b) The requestor and the local government or special district may enter into mediation to resolve issues in the request. The Department of Land Conservation and Development shall provide mediation services when jointly requested by the local government or special district and the requestor.

(c) If the local government or special district does not act in a manner which the requestor believes is adequate to address the issues raised in the request within the time period provided in paragraph (a) of this subsection, a petition may be presented to the Land Conservation and Development Commission under ORS 197.324.

(3) A metropolitan service district may request an enforcement order under ORS 197.320 (12) without first complying with subsections (1) and (2) of this section.

**SECTION 12.** ORS 197.320 is amended to read:

197.320. The Land Conservation and Development Commission shall issue an order requiring a local government, state agency or special district to take action necessary to bring its comprehensive plan, land use regulation, limited land use decisions or other land use decisions **or actions** into compliance with the goals, acknowledged comprehensive plan provisions, [or] land use regulations **or housing production strategy** if the commission has good cause to believe:

(1) A comprehensive plan or land use regulation adopted by a local government not on a compliance schedule is not in compliance with the goals by the date set in ORS 197.245 or 197.250 for such compliance;

(2) A plan, program, rule or regulation affecting land use adopted by a state agency or special district is not in compliance with the goals by the date set in ORS 197.245 or 197.250 for such compliance;

(3) A local government is not making satisfactory progress toward performance of its compliance schedule;

(4) A state agency is not making satisfactory progress in carrying out its coordination agreement or the requirements of ORS 197.180;

(5) A local government has no comprehensive plan or land use regulation and is not on a compliance schedule directed to developing the plan or regulation;

(6) A local government has engaged in a pattern or practice of decision making that violates an acknowledged comprehensive plan or land use regulation. In making its determination under this subsection, the commission shall determine whether there is evidence in the record to support the decisions made. The commission shall not judge the issue solely upon adequacy of the findings in support of the decisions;

(7) A local government has failed to comply with a commission order entered under ORS 197.644;

(8) A special district has engaged in a pattern or practice of decision-making that violates an acknowledged comprehensive plan or cooperative agreement adopted pursuant to ORS 197.020;

(9) A special district is not making satisfactory progress toward performance of its obligations under ORS chapters 195 and 197;

(10) A local government's approval standards, special conditions on approval of specific development proposals or procedures for approval do not comply with ORS 197.307 (4) or (6);

(11) A local government is not making satisfactory progress toward meeting its obligations under ORS 195.065; [or]

(12) A local government within the jurisdiction of a metropolitan service district has failed to make changes to the comprehensive plan or land use regulations to comply with the regional framework plan of the district or has engaged in a pattern or practice of decision-making that violates a requirement of the regional framework plan[.]; **or**

**(13) A city is not making satisfactory progress in taking actions listed in its housing production strategy under section 4 of this 2019 Act.**

**SECTION 13.** Section 1, chapter 47, Oregon Laws 2018, is amended to read:

**Sec. 1.** (1) For purposes of this section:



(a) A household is severely rent burdened if the household spends more than 50 percent of the income of the household on gross rent for housing.

(b) A regulated affordable unit is a residential unit subject to a regulatory agreement that runs with the land and that requires affordability for an established income level for a defined period of time.

(c) A single-family unit may be rented or owned by a household and includes single-family homes, duplexes, townhomes, row homes and mobile homes.

(2)(a) The Housing and Community Services Department shall annually provide to the governing body of each city in this state with a population greater than 10,000 the most current data available from the United States Census Bureau, or any other source the department considers at least as reliable, showing the percentage of renter households in the city that are severely rent burdened.

(b) *[The Housing and Community Services Department, in collaboration with]* The Department of Land Conservation and Development, **in consultation with the Housing and Community Services Department**, shall develop a survey form on which the governing body of a city may provide specific information related to the affordability of housing within the city, including~~l, but not limited to:~~

*[(A)]* the actions relating to land use and other related matters that the *[governing body]* city has taken to **encourage the development of needed housing**, increase the affordability of housing and reduce rent burdens for severely rent burdened households~~;~~ *and*.

*[(B)]* *The additional actions the governing body intends to take to reduce rent burdens for severely rent burdened households.*

(c) *[If the Housing and Community Services Department determines that at least 25 percent of the renter households in a city are severely rent burdened,]* The Department of **Land Conservation and Development** shall provide the governing body of the city with the survey form developed pursuant to paragraph (b) of this subsection.

(d) The governing body of the city shall return the completed survey form to the *[Housing and Community Services Department and the]* Department of Land Conservation and Development *[within 60 days of receipt]* **at least 24 months prior to a deadline for completing a housing production strategy under section 4 of this 2019 Act.**

(3)(a) In any year in which the governing body of a city is informed under this section that at least 25 percent of the renter households in the city are severely rent burdened, the governing body shall hold at least one public meeting to discuss the causes and consequences of severe rent burdens within the city, the barriers to reducing rent burdens and possible solutions.

(b) The Housing and Community Services Department may adopt rules governing the conduct of the public meeting required under this subsection.

(4) No later than February 1 of each year, the governing body of each city in this state with a population greater than 10,000 shall submit to the Department of Land Conservation and Development a report for the immediately preceding calendar year setting forth separately for each of the following categories the total number of units that were permitted and the total number that were produced:

- (a) Residential units.
- (b) Regulated affordable residential units.
- (c) Multifamily residential units.
- (d) Regulated affordable multifamily residential units.
- (e) Single-family units.
- (f) Regulated affordable single-family units.

**SECTION 14. Section 15 of this 2019 Act is added to and made a part of ORS chapter 197.**

**SECTION 15. (1) As used in this section, “public property” means all real property of the state, counties, cities, incorporated towns or villages, school districts, irrigation districts, drainage districts, ports, water districts, service districts, metropolitan service districts, housing authorities, public universities listed in ORS 352.002 or all other public or municipal corporations in this state.**

**(2) Notwithstanding any land use regulation, comprehensive plan, or statewide land use planning goal, a local government may allow the development of housing on public property provided:**

**(a) The real property is not inventoried as a park or open space as a protective measure pursuant to a statewide land use planning goal;**

**(b) The real property is located within the urban growth boundary;**

**(c) The real property is zoned for residential development or adjacent to parcels zoned for residential development;**

**(d) The housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone of the land or the adjacent residential land described in paragraph (c) of this subsection;**

**(e) At least 50 percent of the residential units provided under this section is affordable to households with incomes equal to or less than 60 percent of the area median income, as defined in ORS 456.270; and**

**(f) The affordability of the residential units described in paragraph (e) of this subsection is subject to an affordable housing covenant, as described in ORS 456.270 to 456.295, held by the local government or the Housing and Community Services Department and with a duration of no less than 60 years.**

**(3) Notwithstanding any statewide land use planning goal, a local government may amend its comprehensive plan and land use regulations to allow public property to be used for the purposes described in subsection (2) of this section.**

**SECTION 16.** Notwithstanding ORS 197.646, a local government required to comply with the amendments to ORS 197.312 by section 6, chapter 745, Oregon Laws 2017, shall adopt land use regulations, or adopt amendments to its comprehensive plan, to comply with the amendments to ORS 197.312 by section 6, chapter 745, Oregon Laws 2017, no later than the effective date of this 2019 Act.

**SECTION 17.** ORS 215.416 is amended to read:

215.416. (1) When required or authorized by the ordinances, rules and regulations of a county, an owner of land may apply in writing to such persons as the governing body designates, for a permit, in the manner prescribed by the governing body. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service.

(2) The governing body shall establish a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project. The consolidated procedure shall be subject to the time limitations set out in ORS 215.427. The consolidated procedure shall be available for use at the option of the applicant no later than the time of the first periodic review of the comprehensive plan and land use regulations.

(3) Except as provided in subsection (11) of this section, the hearings officer shall hold at least one public hearing on the application.

(4)(a) A county may not approve an application if the proposed use of land is found to be in conflict with the comprehensive plan of the county and other applicable land use regulation or ordinance provisions. The approval may include such conditions as are authorized by statute or county legislation.

(b)(A) A county may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including but not limited to clear and objective design standards contained in the county comprehensive plan or land use regulations.

(B) This paragraph does not apply to:

(i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

(ii) Applications or permits reviewed under an alternative approval process adopted under ORS 197.307 (6).

(c) A county may not [*reduce the density of*] **condition** an application for a housing development **on a reduction in density** if:

(A) The density applied for is at or below the authorized density level under the local land use regulations; and

(B) At least 75 percent of the floor area applied for is reserved for housing.

(d) A county may not [*reduce the height of*] **condition** an application for a housing development **on a reduction in height** if:

(A) The height applied for is at or below the authorized height level under the local land use regulations;

(B) At least 75 percent of the floor area applied for is reserved for housing; and

(C) Reducing the height has the effect of reducing the authorized density level under local land use regulations.

(e) Notwithstanding paragraphs (c) and (d) of this subsection, a county may [*reduce the density or height of*] **condition** an application for a housing development **on a reduction in density or height only** if the reduction is necessary to resolve a health, safety or habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal. **Notwithstanding ORS 197.350, the county must adopt findings supported by substantial evidence demonstrating the necessity of the reduction.**

(f) As used in this subsection:

(A) "Authorized density level" means the maximum number of lots or dwelling units or the maximum floor area ratio that is permitted under local land use regulations.

(B) "Authorized height level" means the maximum height of a structure that is permitted under local land use regulations.

(C) "Habitability" means being in compliance with the applicable provisions of the state building code under ORS chapter 455 and the rules adopted thereunder.

(5) Hearings under this section shall be held only after notice to the applicant and also notice to other persons as otherwise provided by law and shall otherwise be conducted in conformance with the provisions of ORS 197.763.

(6) Notice of a public hearing on an application submitted under this section shall be provided to the owner of an airport defined by the Oregon Department of Aviation as a "public use airport" if:

(a) The name and address of the airport owner has been provided by the Oregon Department of Aviation to the county planning authority; and

(b) The property subject to the land use hearing is:

(A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon Department of Aviation to be a "visual airport"; or

(B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon Department of Aviation to be an "instrument airport."

(7) Notwithstanding the provisions of subsection (6) of this section, notice of a land use hearing need not be provided as set forth in subsection (6) of this section if the zoning permit would only allow a structure less than 35 feet in height and the property is located outside the runway "approach surface" as defined by the Oregon Department of Aviation.

(8)(a) Approval or denial of a permit application shall be based on standards and criteria which shall be set forth in the zoning ordinance or other appropriate ordinance or regulation of the county and which shall relate approval or denial of a permit application to the zoning ordinance and comprehensive plan for the area in which the proposed use of land would occur and to the zoning ordinance and comprehensive plan for the county as a whole.

(b) When an ordinance establishing approval standards is required under ORS 197.307 to provide only clear and objective standards, the standards must be clear and objective on the face of the ordinance.

(9) Approval or denial of a permit or expedited land division shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the deci-

sion, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

(10) Written notice of the approval or denial shall be given to all parties to the proceeding.

(11)(a)(A) The hearings officer or such other person as the governing body designates may approve or deny an application for a permit without a hearing if the hearings officer or other designated person gives notice of the decision and provides an opportunity for any person who is adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection, to file an appeal.

(B) Written notice of the decision shall be mailed to those persons described in paragraph (c) of this subsection.

(C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall describe the nature of the decision. In addition, the notice shall state that any person who is adversely affected or aggrieved or who is entitled to written notice under paragraph (c) of this subsection may appeal the decision by filing a written appeal in the manner and within the time period provided in the county's land use regulations. A county may not establish an appeal period that is less than 12 days from the date the written notice of decision required by this subsection was mailed. The notice shall state that the decision will not become final until the period for filing a local appeal has expired. The notice also shall state that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

(D) An appeal from a hearings officer's decision made without hearing under this subsection shall be to the planning commission or governing body of the county. An appeal from such other person as the governing body designates shall be to a hearings officer, the planning commission or the governing body. In either case, the appeal shall be to a de novo hearing.

(E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals. At the de novo hearing:

(i) The applicant and other parties shall have the same opportunity to present testimony, arguments and evidence as they would have had in a hearing under subsection (3) of this section before the decision;

(ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised in a notice of appeal; and

(iii) The decision maker shall consider all relevant testimony, arguments and evidence that are accepted at the hearing.

(b) If a local government provides only a notice of the opportunity to request a hearing, the local government may charge a fee for the initial hearing. The maximum fee for an initial hearing shall be the cost to the local government of preparing for and conducting the appeal, or \$250, whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made by neighborhood or community organizations recognized by the governing body and whose boundaries include the site.

(c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the applicant and to the owners of record of property on the most recent property tax assessment roll where such property is located:

(i) Within 100 feet of the property that is the subject of the notice when the subject property is wholly or in part within an urban growth boundary;

(ii) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a farm or forest zone; or

(iii) Within 750 feet of the property that is the subject of the notice when the subject property is within a farm or forest zone.

(B) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(C) At the discretion of the applicant, the local government also shall provide notice to the Department of Land Conservation and Development.

(12) A decision described in ORS 215.402 (4)(b) shall:

(a) Be entered in a registry available to the public setting forth:

(A) The street address or other easily understood geographic reference to the subject property;

(B) The date of the decision; and

(C) A description of the decision made.

(b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a limited land use decision.

(c) Be subject to the appeal period described in ORS 197.830 (5)(b).

(13) At the option of the applicant, the local government shall provide notice of the decision described in ORS 215.402 (4)(b) in the manner required by ORS 197.763 (2), in which case an appeal to the board shall be filed within 21 days of the decision. The notice shall include an explanation of appeal rights.

(14) Notwithstanding the requirements of this section, a limited land use decision shall be subject to the requirements set forth in ORS 197.195 and 197.828.

**SECTION 18.** ORS 227.175 is amended to read:

227.175. (1) When required or authorized by a city, an owner of land may apply in writing to the hearings officer, or such other person as the city council designates, for a permit or zone change, upon such forms and in such a manner as the city council prescribes. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service.

(2) The governing body of the city shall establish a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project. The consolidated procedure shall be subject to the time limitations set out in ORS 227.178. The consolidated procedure shall be available for use at the option of the applicant no later than the time of the first periodic review of the comprehensive plan and land use regulations.

(3) Except as provided in subsection (10) of this section, the hearings officer shall hold at least one public hearing on the application.

(4)(a) A city may not approve an application unless the proposed development of land would be in compliance with the comprehensive plan for the city and other applicable land use regulation or ordinance provisions. The approval may include such conditions as are authorized by ORS 227.215 or any city legislation.

(b)(A) A city may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including [*but not limited to*] clear and objective design standards contained in the city comprehensive plan or land use regulations.

(B) This paragraph does not apply to:

(i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

(ii) Applications or permits reviewed under an alternative approval process adopted under ORS 197.307 (6).

(c) A city may not [*reduce the density of*] **condition** an application for a housing development **on a reduction in density** if:

(A) The density applied for is at or below the authorized density level under the local land use regulations; and

(B) At least 75 percent of the floor area applied for is reserved for housing.

(d) A city may not [*reduce the height of*] **condition** an application for a housing development **on a reduction in height** if:

(A) The height applied for is at or below the authorized height level under the local land use regulations;

(B) At least 75 percent of the floor area applied for is reserved for housing; and

(C) Reducing the height has the effect of reducing the authorized density level under local land use regulations.

(e) Notwithstanding paragraphs (c) and (d) of this subsection, a city may [reduce the density or height of] **condition** an application for a housing development **on a reduction in density or height only** if the reduction is necessary to resolve a health, safety or habitability issue or to comply with a protective measure adopted pursuant to a statewide land use planning goal. **Notwithstanding ORS 197.350, the city must adopt findings supported by substantial evidence demonstrating the necessity of the reduction.**

(f) As used in this subsection:

(A) "Authorized density level" means the maximum number of lots or dwelling units or the maximum floor area ratio that is permitted under local land use regulations.

(B) "Authorized height level" means the maximum height of a structure that is permitted under local land use regulations.

(C) "Habitability" means being in compliance with the applicable provisions of the state building code under ORS chapter 455 and the rules adopted thereunder.

(5) Hearings under this section may be held only after notice to the applicant and other interested persons and shall otherwise be conducted in conformance with the provisions of ORS 197.763.

(6) Notice of a public hearing on a zone use application shall be provided to the owner of an airport, defined by the Oregon Department of Aviation as a "public use airport" if:

(a) The name and address of the airport owner has been provided by the Oregon Department of Aviation to the city planning authority; and

(b) The property subject to the zone use hearing is:

(A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon Department of Aviation to be a "visual airport"; or

(B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon Department of Aviation to be an "instrument airport."

(7) Notwithstanding the provisions of subsection (6) of this section, notice of a zone use hearing need only be provided as set forth in subsection (6) of this section if the permit or zone change would only allow a structure less than 35 feet in height and the property is located outside of the runway "approach surface" as defined by the Oregon Department of Aviation.

(8) If an application would change the zone of property that includes all or part of a mobile home or manufactured dwelling park as defined in ORS 446.003, the governing body shall give written notice by first class mail to each existing mailing address for tenants of the mobile home or manufactured dwelling park at least 20 days but not more than 40 days before the date of the first hearing on the application. The governing body may require an applicant for such a zone change to pay the costs of such notice.

(9) The failure of a tenant or an airport owner to receive a notice which was mailed shall not invalidate any zone change.

(10)(a)(A) The hearings officer or such other person as the governing body designates may approve or deny an application for a permit without a hearing if the hearings officer or other designated person gives notice of the decision and provides an opportunity for any person who is adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection, to file an appeal.

(B) Written notice of the decision shall be mailed to those persons described in paragraph (c) of this subsection.

(C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall describe the nature of the decision. In addition, the notice shall state that any person who is adversely affected or aggrieved or who is entitled to written notice under paragraph (c) of this subsection may appeal the decision by filing a written appeal in the manner and within the time period provided in the city's land use regulations. A city may not establish an appeal period that is less than 12 days from the date the written notice of decision required by this subsection was mailed. The notice shall state that the decision will not become final until the period for filing a local ap-

peal has expired. The notice also shall state that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

(D) An appeal from a hearings officer's decision made without hearing under this subsection shall be to the planning commission or governing body of the city. An appeal from such other person as the governing body designates shall be to a hearings officer, the planning commission or the governing body. In either case, the appeal shall be to a de novo hearing.

(E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals. At the de novo hearing:

(i) The applicant and other parties shall have the same opportunity to present testimony, arguments and evidence as they would have had in a hearing under subsection (3) of this section before the decision;

(ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised in a notice of appeal; and

(iii) The decision maker shall consider all relevant testimony, arguments and evidence that are accepted at the hearing.

(b) If a local government provides only a notice of the opportunity to request a hearing, the local government may charge a fee for the initial hearing. The maximum fee for an initial hearing shall be the cost to the local government of preparing for and conducting the appeal, or \$250, whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made by neighborhood or community organizations recognized by the governing body and whose boundaries include the site.

(c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the applicant and to the owners of record of property on the most recent property tax assessment roll where such property is located:

(i) Within 100 feet of the property that is the subject of the notice when the subject property is wholly or in part within an urban growth boundary;

(ii) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a farm or forest zone; or

(iii) Within 750 feet of the property that is the subject of the notice when the subject property is within a farm or forest zone.

(B) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(C) At the discretion of the applicant, the local government also shall provide notice to the Department of Land Conservation and Development.

(11) A decision described in ORS 227.160 (2)(b) shall:

(a) Be entered in a registry available to the public setting forth:

(A) The street address or other easily understood geographic reference to the subject property;

(B) The date of the decision; and

(C) A description of the decision made.

(b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a limited land use decision.

(c) Be subject to the appeal period described in ORS 197.830 (5)(b).

(12) At the option of the applicant, the local government shall provide notice of the decision described in ORS 227.160 (2)(b) in the manner required by ORS 197.763 (2), in which case an appeal to the board shall be filed within 21 days of the decision. The notice shall include an explanation of appeal rights.

(13) Notwithstanding other requirements of this section, limited land use decisions shall be subject to the requirements set forth in ORS 197.195 and 197.828.

**SECTION 19.** ORS 215.441 is amended to read:

215.441. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a county shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including:

- (a) Worship services.
- (b) Religion classes.
- (c) Weddings.
- (d) Funerals.
- (e) Meal programs.

(f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

(g) Providing housing or space for housing in a building **or buildings** that [is] **are** detached from the place of worship, provided:

(A) At least 50 percent of the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;

(B) The real property is in an area zoned for residential use that is located within the urban growth boundary; and

(C) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.

(2) A county may:

(a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

(b) Prohibit or restrict the use of real property by a place of worship described in subsection (1) of this section if the county finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

(3) Notwithstanding any other provision of this section, a county may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations.

(4) Housing and space for housing provided under subsection (1)(g) of this section must be subject to a covenant appurtenant that restricts the owner and each successive owner of [the] a building or any residential unit contained in [the] a building from selling or renting any residential unit described in subsection (1)(g)(A) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy.

**SECTION 20.** ORS 227.500 is amended to read:

227.500. (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a city shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including:

- (a) Worship services.
- (b) Religion classes.
- (c) Weddings.
- (d) Funerals.
- (e) Meal programs.

(f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

(g) Providing housing or space for housing in a building **or buildings** that [is] **are** detached from the place of worship, provided:



(A) At least 50 percent of the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;

(B) The real property is in an area zoned for residential use that is located within the urban growth boundary; and

(C) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.

(2) A city may:

(a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review and design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

(b) Prohibit or regulate the use of real property by a place of worship described in subsection (1) of this section if the city finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.

(3) Notwithstanding any other provision of this section, a city may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations.

(4) Housing and space for housing provided under subsection (1)(g) of this section must be subject to a covenant appurtenant that restricts the owner and each successive owner of [*the*] a building or any residential unit contained in [*the*] a building from selling or renting any residential unit described in subsection (1)(g)(A) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy.

**SECTION 21.** ORS 455.062 is amended to read:

455.062. (1) A Department of Consumer and Business Services employee acting within the scope of that employment may provide typical plans and specifications:

(a) For structures of a type for which the provision of plans or specifications is exempted under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060 from the application of ORS 672.002 to 672.325; and

(b) Notwithstanding ORS 671.010 to 671.220 and 672.002 to 672.325, for structures that are metal or wood frame Use and Occupancy Classification Group U structures under the structural specialty code.

**(2) A Department of Consumer and Business Services employee, who is licensed or registered under ORS 671.010 to 671.220 or 672.002 to 672.325, who is acting within the scope of that employment and who is providing typical plans and specifications under subsection (1) of this section, is not required to seal or sign the typical plans and specifications and is not subject to disciplinary action under ORS 671.010 to 671.220 or 672.002 to 672.325 based on providing those typical plans and specifications.**

[2] (3) A building official or inspector, as those terms are defined in ORS 455.715, when acting within the scope of direct employment by a municipality, may provide typical plans and specifications for structures of a type for which the provision of plans or specifications is exempted under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060 from the application of ORS 672.002 to 672.325.

[3] This [*section*] **subsection** does not alter any applicable requirement under ORS 671.010 to 671.220 or 672.002 to 672.325 regarding stamps and seals for a set of plans for a structure.

**SECTION 21a.** If Senate Bill 39 becomes law, ORS 455.062, as amended by section 2, chapter 97, Oregon Laws 2019 (Enrolled Senate Bill 39), and section 21 of this 2019 Act, is amended to read:

455.062. (1) A Department of Consumer and Business Services employee acting within the scope of that employment may provide typical drawings and specifications:

(a) For structures of a type for which the provision of drawings or specifications is exempted under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060 from the registration requirements of ORS 672.002 to 672.325; and

(b) Notwithstanding ORS 671.010 to 671.220 and 672.002 to 672.325, for structures that are metal or wood frame Use and Occupancy Classification Group U structures under the structural specialty code.

(2) A Department of Consumer and Business Services employee, who is licensed or registered under ORS 671.010 to 671.220 or 672.002 to 672.325, who is acting within the scope of that employment and who is providing typical [plans] **drawings** and specifications under subsection (1) of this section, is not required to seal or sign the typical [plans] **drawings** and specifications and is not subject to disciplinary action under ORS 671.010 to 671.220 or 672.002 to 672.325 based on providing those typical [plans] **drawings** and specifications.

(3) A building official or inspector, as those terms are defined in ORS 455.715, when acting within the scope of direct employment by a municipality, may provide typical drawings or specifications for structures of a type for which the provision of drawings or specifications is exempted under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060 from the registration requirements of ORS 672.002 to 672.325. This subsection does not alter any applicable requirement under ORS 671.010 to 671.220 or 672.002 to 672.325 regarding stamps and seals for a set of plans for a structure.

**SECTION 21b.** If Senate Bill 39 becomes law, section 3, chapter 97, Oregon Laws 2019 (Enrolled Senate Bill 39), is amended to read:

**Sec. 3.** The amendments to ORS 455.062 and 672.060 by sections 1 and 2 [of this 2019 Act], **chapter 97, Oregon Laws 2019 (Enrolled Senate Bill 39), and section 21a of this 2019 Act** apply to work performed, and offers made, on or after the effective date of [this 2019 Act] **chapter 97, Oregon Laws 2019 (Enrolled Senate Bill 39).**

**SECTION 22.** In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Land Conservation and Development, for the biennium beginning July 1, 2019, out of the General Fund, the amount of \$1,000,000, to provide technical assistance to local governments to implement sections 4 to 6 and 15 of this 2019 Act and the amendments to ORS 197.296, 197.299, 197.303, 197.319, 197.320, 215.416, 215.441, 227.175 and 227.500 and section 1, chapter 47, Oregon Laws 2018, by sections 8 to 13 and 17 to 20 of this 2019 Act.

**SECTION 23.** In addition to and not in lieu of any other appropriation, there is appropriated to the Housing and Community Services Department, for the biennium beginning July 1, 2019, out of the General Fund, the amount of \$655,274, for research, administration and reporting that relate to a regional housing needs analysis described in section 1 of this 2019 Act.

**SECTION 24.** (1) Sections 4 to 6 of this 2019 Act and the amendments to ORS 197.296, 197.299, 197.303, 197.319 and 197.320 and section 1, chapter 47, Oregon Laws 2018, by sections 8 to 13 of this 2019 Act become operative on January 1, 2020.

(2) The Land Conservation and Development Commission, the Department of Land Conservation and Development and the Housing and Community Services Department may take any action before the operative date specified in subsection (1) of this section that is necessary for the departments and the commission to exercise, on or after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the departments and the commission by sections 4 to 6 of this 2019 Act and the amendments to ORS 197.296, 197.299, 197.303, 197.319, 197.320 and section 1, chapter 47, Oregon Laws 2018, by sections 8 to 13 of this 2019 Act.

**SECTION 25.** This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.

**Passed by House June 26, 2019**

.....  
Timothy G. Sekerak, Chief Clerk of House

.....  
Tina Kotek, Speaker of House

**Passed by Senate June 30, 2019**

.....  
Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2019

**Approved:**

.....M,....., 2019

.....  
Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2019

.....  
Bev Clarno, Secretary of State

# HOUSING RULEMAKING ADVISORY COMMITTEE MEETING PACKET #3



**TO:** Housing Rulemaking Advisory Committee Members  
**FROM:** Ethan Stuckmayer, Senior Housing Planner  
**SUBJECT:** Update on Regional Housing Needs Analysis Methodology (Oregon Housing and Community Services)

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Housing Rulemaking Committee Members,

In addition to provisions directing DLCD to publish a schedule for regular Housing Needs Analysis updates and requiring cities over 10,000 population to develop Housing Production Strategies, House Bill 2003 also includes provisions to study housing need on a regional level. The bill directs Oregon Housing and Community Services (OHCS), in coordination with the Department of Land Conservation and Development (DLCD) and the Department of Administrative Services (DAS), to formulate a methodology and to conduct a Regional Housing Needs Analysis by September 1, 2020.

DLCD has been working closely with OHCS and DAS to begin formulating a methodology for the regional housing needs analysis and has invited OHCS to present an update on progress during the rulemaking committee's January 22 meeting. The departments are not expecting Housing Rulemaking Advisory Committee member feedback or discussion on the topic at this meeting and is for informational purposes. OHCS will outline a series of separate opportunities for public comment and feedback during their presentation.

## **Legislative Context**

Section 1 of House Bill 2003 states that the analysis should calculate the total number of housing units necessary to accommodate anticipated populations in a region over the next 20 years based on trends in density, housing mix, demographics, economic cycles, and the equitable distribution of publicly supported housing. This analysis will include an estimate of existing housing stock and housing shortage for each city and Metro. The bill directs the agencies to classify the housing stock and housing shortage by housing type (attached and detached single-family, multifamily, and manufactured housing) and by affordability to households with very low, low, moderate, and high income.

The intent of HB2003 is for the regional housing needs analysis to serve as a pilot project. Once OHCS has conducted the methodology, DLCD will review the findings of the analysis and submit a report to the Oregon Legislature by March 1, 2021. DLCD's report will outline specific recommendations that may be used by the Legislature to discontinue, adapt, or continue conducting a regional housing needs analyses in addition to or in place of local housing needs analyses.

California's Department of Housing and Community Development (CA-HCD) is the only state so far to have developed a regional housing needs analysis conducted at the state level, and so was a source of inspiration for the legislation as much as it will be a key source of reference for OHCS in this work.

### **Progress on Methodology**

OHCS has been working with several state agencies to formulate the regional housing needs analysis methodologies since HB2003 was passed in June 2019. The department has scheduled monthly coordination meetings with DLCD, DAS, and the Department of Employment. OHCS has also contracted with ECONorthwest to assist in the creation of a regional housing needs analysis methodology and will gather public and stakeholder feedback on the project.

OHCS will determine the appropriateness of the regions recommended in the bill and then study the housing need across each region. Prior to running the methodology, adjustments to the regions may be made based on transportation-, housing-, commuter-, and employment-shed data and the availability of appropriate data sources. To calculate housing stock and shortage by housing type and affordability, OHCS will primarily use US Census American Community Survey data. Additional data sources may be used in areas where such data is available.

OHCS will produce two separate reports: 1) the regional housing needs analysis approximating the CA-HCD approach with existing data; and 2) an investigation into an alternative Oregon-specific methodology that tackles the differences between CA-HCD's analysis and the more specific requirements of HB 2003. These two reports will aim to detail what data are available and what level of analysis that permits, as well as identify any barriers, and what data or other components are missing to precisely calculate a housing shortage and the 20-year housing need in regions across Oregon.

### **Stakeholder Engagement**

OHCS is seeking input and guidance from stakeholders throughout this process and has identified a group of practitioners, advocacy groups, and officials that can lend their technical expertise in creating the best regional housing needs analysis methodology in the current context. The stakeholder engagements will be held prior to OHCS executing the scope of work to allow for input into the process, and after the work and the two above-mentioned reports have been completed, to allow for input into the final report and recommendations that will be written in summary of OHCS's whole project.

DLCD encourages members of the Housing Rulemaking Advisory Committee to participate in these stakeholder engagement opportunities as they see fit.

To learn more and to keep up to date on progress being made throughout 2020, please visit the project page on OHCS' website at <https://www.oregon.gov/ohcs/Pages/rhna.aspx>.

Thank you,



#### **Ethan Stuckmayer**

Senior Planner of Housing Programs | Community Services Division  
Oregon Department of Land Conservation and Development  
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# HOUSING RULEMAKING ADVISORY COMMITTEE MEETING PACKET #3



**TO:** Middle Housing Model Code Technical Advisory Committee Members  
**FROM:** Ethan Stuckmayer, Senior Housing Planner  
**SUBJECT:** RAC Meeting #3 Discussion Worksheet

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Housing Rulemaking Advisory Committee Members,

In order to meet our ambitious timeline and schedule, meetings of the RAC will need to be a space for robust conversation and discussion about agenda items. In order to facilitate this type of discussion, we have pulled specific topics, questions, and decision points from the meeting packet into this central discussion worksheet document. The intent of this document is to mirror the flow of the discussion and agenda items and should be used to collect your thoughts, comments, questions, and concerns on specific points.

*As you review the meeting packet contents prior to our meeting, please use this worksheet to take down notes or to formulate your questions for the project team. Due to limited discussion time at our meetings, please submit this as additional written feedback to the project team at the meeting as you see fit. Committee members will also be sent a link to a fillable version of this discussion worksheet as to collect additional questions or comments that may not have been expressed during the meeting.*

Thank you,



**Ethan Stuckmayer**

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**RAC3 Meeting Packet Item #6: Housing Production Strategy Concepts Memo**

[#1] Housing Production Strategy Elements - Are the data and analysis points outlined in HB2003 Section 4 (3) sufficient to fully outline and contextualize a city’s housing need? If not, what other data and analysis would help local governments better understand and measure the housing needs of their communities?

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[#2] Suggested Categories for Housing Production Strategy Tools - We are looking to the RAC to advise on the “buckets” of specific actions, policies, and tools future housing production strategies should consider. Are the above mentioned “buckets” sufficient to categorize the tools available to cities to increase housing production? Will they need to be more broad or specific? How can we categorize actions in a way that makes understanding costs and benefits of each action more intuitive?

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[#3] Analysis of Housing Production Strategy Actions and Equity Considerations - What equity questions can be asked throughout HPS reporting in order to shed light on the benefits/burdens facing communities with limited infrastructure, resources, and staff capacity? What tools can the State use to evaluate individual cases in order to minimize burdens of under-served communities?

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[#4] Public Outreach and Engagement - What will meaningful public engagement look like at the local level for a HPS? What minimum public outreach efforts can be incorporated into HB 2003 rulemaking to ensure that the housing needs of the most housing-insecure communities are identified?

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[#5] Reporting on Housing Production Strategy Progress - What measurable data points would be useful to track the progress of local governments as they fulfill their housing needs across the state? How mandatory should these reports be? If jurisdictions are not making satisfactory progress towards their housing goals, what accountability measures will need to be put in place in order to enforce this policy?

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[#6] Reporting on Housing Production Strategy Process – What other criteria should DLCD consider when determining whether to intervene in a city’s implementation of their Housing Production Strategy? Should there be tiers of enhanced critique by DLCD? If so, how might DLCD differentiate those tiers? What constitutes “unmet housing need”?

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[#7] Subsequent and Ongoing Housing Production Strategies - Should future Housing Production Strategies include a section analyzing the actions identified in a previously adopted HPS? If so, what new information might this section provide that is not already included in an annual HPS progress survey?

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# HOUSING RULEMAKING ADVISORY COMMITTEE MEETING PACKET #3



**TO:** Housing Rulemaking Advisory Committee Members  
**FROM:** Ethan Stuckmayer, Senior Housing Planner; Samuel Garcia, Housing Planner  
**SUBJECT:** Housing Production Strategy Concepts and Key Considerations Memo

## **Overview**

The purpose of this memo is to outline a proposed organizational structure for the Housing Production Strategy (HPS) required by HB 2003 for cities with a population greater than 10,000. We have included discussion questions, which highlight some key concepts the Housing Production Strategy Technical Advisory Committee (HPSTAC) will need to consider throughout the rulemaking process. We are seeking RAC input on these questions at the January 22 meeting in preparation for the February 6 HPSTAC meeting.

The goal of the HPS rulemaking process is to provide standards, procedures, and criteria to guide cities as they prepare and adopt a HPS, within one year of each city's Housing Needs Analysis (HNA) deadline. Per statute, a HPS must include a list of specific actions that a city will undertake to promote development that addresses the housing needs identified in their HNA.

As such, the goal for this memo is to identify an organizational structure and key concepts for the HPS rulemaking that can be easily integrated by cities while ensuring that cities can fulfill identified housing needs in a timely and sustainable manner.

In preparing this memo, the project team reviewed recently adopted HNAs and housing implementation plans (an initiative of 2018's HB4006) from cities throughout the state. These documents can serve as an outline for potential processes and analysis that should be included in a HPS and should be referenced by the RAC and HPSTAC through the rulemaking process (Attachments A and B).

*As a reminder, this memo is not intended to be exhaustive of all concepts and considerations. If you have suggested additions or deletions, please provide feedback at the meeting or on the discussion worksheet in the meeting packet.*

## **Housing Production Strategy Elements**

In HB 2003, Section 4 (3) lists a series of required elements local governments must analyze to contextualize their housing need, including, but not limited to the following:

- (a) socioeconomic and demographic characteristics of households living in existing needed housing;
- (b) market conditions affecting the provision of needed housing;
- (c) measures already adopted by the city to promote the development of needed housing;
- (d) existing and expected barriers to the development of needed housing.

Much of this data and analysis will be provided as part of regular HNA updates, however, as a city moves to address its specific housing needs, it will be necessary for a city to explicitly review each of these elements.

Element (a) should include analysis of the socioeconomic categories (very low income, low income, moderate income, and high income) and demographics analyzed in a city's HNA. A city should include analysis of populations and locations in a city that are particularly sensitive to displacement or gentrification in this element.

Element (b) may include but is not limited to market conditions such as economic trends and cycles, the employment base in the city, and expected population growth over the 20-year planning period.

Possibly in addition to Elements (c) and (d) above, there are specific reporting and documentation efforts that a jurisdiction receiving federal housing funding (CDBG, HOME, etc) must undertake on a recurring basis. Analysis conducted as part of Consolidated Plans, Analysis of Impediments, and Affirmatively Furthering Fair Housing should also be included by a city as required elements showing the housing need in these Participating Jurisdictions.

**Discussion Question #1: Are the data and analysis points outlined in HB2003 Section 4 (3) sufficient to fully outline and contextualize a city's housing need? If not, what other data and analysis would help local governments better understand and measure the housing needs of their communities?**

## **Suggested Categories for Housing Production Strategy Tools**

According to House Bill 2003, SECTION 4 (2),

"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 development within the city to address a housing need identified under ORS 197.296 (6)"

When identifying a specific list of actions, policies, tools, and measures, bill language states cities may be required to categorize them into groups based on, but not limited to the following "buckets":

- The reduction of financial and regulatory impediments to developing needed housing, including removing or easing approval standards or procedures for needed housing at higher densities or that is affordable;
- The creation of financial and regulatory incentives for development of needed housing, including creating incentives for needed housing at higher densities or that is affordable; and
- The development of a plan to access resources available at local, regional, state and national levels to increase the availability and affordability of needed housing.

With the understanding that addressing all specific housing needs will require a comprehensive set of strategies, the project team has identified other "buckets" of actions, policies, and measures for consideration in addition to those stated in statute, including:

- Policies or actions that further housing outcomes of groups that have been historically marginalized, under-represented, or displaced from housing resources
- Innovative and alternative measures such as public/private partnerships or joint development measures that encourage collaboration between local governments and other industries such as business, environmental, and transportation; and
- Incentives that catalyze the development of environmentally and energy efficient housing.

**Discussion Question #2: We are looking to the RAC to advise on the "buckets" of specific actions, policies, and tools future housing production strategies should consider. Are the above mentioned "buckets" sufficient to categorize the tools available to cities to increase housing production? Will they need to be more broad or specific? How can we categorize actions in a way that makes understanding costs and benefits of each action easier?**

### **Analysis of Housing Production Strategy Actions and Equity Considerations**

HB 2003, SECTION 4 (3) continues to clarify that for each action the city includes in its housing production strategy, a city shall review:

- The schedule for the action's adoption;
- The schedule for the action's implementation;
- The action's expected magnitude of impact on the development of needed housing; and
- The time frame over which the action is expected to impact needed housing.

This provides opportunity to not only identify timely schedules for adoption and implementation, but also characterize community benefits and burdens of a HPS through a lens that furthers the housing opportunities of historically marginalized groups.

Adoption and implementation timelines may illustrate the burden that communities face with limited financial resources, staff capacity, and infrastructure. Further, local government decisions may exacerbate the magnitude of impact for already-marginalized populations if unintended consequences are not taken into consideration and equally weighed prior to implementation.

**Discussion Question #3: What equity questions can be asked throughout HPS reporting in order to shed light on the benefits/burdens facing communities with limited infrastructure, resources, and staff capacity? What tools can the State use to evaluate individual cases in order to minimize burdens on under-served communities?**

### **Public Outreach and Engagement**

Robust public outreach is critical to drafting a worthwhile and compliant HNA and HPS. Local governments must understand the needs and desires of communities they serve, especially as it relates to communities that are infrastructure-deficient and rent-burdened.

Cities subject to HB4006 (those with substantial housing cost burdened populations), are required to host housing community open houses on an annual basis. Housing production strategy public engagement could follow this HB4006 model or more direct public engagement models could be used – such as holding community conversations, presentations to targeted stakeholders, coordinating focus groups, or partnering with community-based organizations.

**Discussion Question #4: What will meaningful public engagement look like at the local level for a HPS? What minimum public outreach efforts can be incorporated into HB 2003 rulemaking to ensure that the housing needs of the most housing-insecure communities are identified?**

### **Reporting on Housing Production Strategy Progress**

In order to evaluate whether HPSs are making progress to fill the housing needs of local governments throughout the state, we will need to develop a methodology requiring continual and frequent reporting.

Reporting on HPS progress will likely be annual and will include an update on the adoption and implementation of specific actions taken by the city to increase housing production, the number of housing units produced and permitted as a result of each action, and any additional actions the city has taken since the HPS was adopted.

Again, HB4006 may offer a model for this. HB 4006 requires cities greater than a population of 10,000 and more than 25% of renter households experiencing severe rent burden to complete a survey reporting the number of housing units permitted and produced annually. Any reporting necessary to show progress on a HPS could be included in this survey.

**Discussion Question #5: What measurable data points would be useful to track the progress of local governments as they fulfill their housing needs across the state? Should these reports be mandatory? If jurisdictions are not making satisfactory progress towards their housing goals, what accountability measures should the rules include in order to enforce this policy?**

According to bill language in Section 6 of HB 2003, DLCD, in coordination with Oregon Housing and Community Services (OHCS) will be working to adopt criteria to review if cities greater than 10,000 have not sufficiently:

- (a) Achieved production of needed housing within their jurisdiction; or
- (b) Implemented a housing production strategy

Based on the city's

- (a) Unmet housing need as identified in their HNA;
- (b) Unmet housing needs in proportion to the City's population;
- (c) Percentage of households identified as severely rent burdened;
- (d) Recent housing development;
- (e) Actions adopted in a Housing Production Strategy;
- (f) Previous enforcement action taken by DLCD; or
- (g) Other attributes deemed necessary by the commission.

Rules will need to be considered here, too. The Bill provides a path for DLCD to consider a city's HPS progress in decisions related to technical assistance funding and grants, whether to provide enhanced review and oversight of a city's HPS, and ongoing reporting and evaluation of actions identified in a housing production.

**Discussion Question #6: What other criteria should DLCD consider when determining whether to intervene in a city's implementation of their Housing Production Strategy? Should there be tiers of enhanced critique by DLCD? If so, how might DLCD differentiate those tiers? What constitutes "unmet housing need"?**

### **Subsequent and Ongoing Housing Production Strategies**

Housing Production Strategies are an extension of a city's HNA. Section 7 of HB2003 directed DLCD to publish a schedule by which cities shall update their HNAs – either on a six or eight-year cycle.

The initial HPS adopted by a city will consider specific actions, policies, and measures as outlined in Section 4 of HB2003 and progress towards those actions considered will be reported to DLCD through annual surveys.

Subsequent HPSs adopted by a city should consider a new list of specific actions, policies, and measures based on the updated HNA and identified 20-year housing need. However, there may be a need for subsequent HPSs to also update and review the actions outlined in the previous HPS.

**Discussion Question #7: Should future Housing Production Strategies include a section analyzing the actions identified in a previously adopted HPS? If so, what new information might this section provide that is not already included in an annual HPS progress survey?**



**Attachment A.**  
**City of Gold Beach Housing Strategies Report.**  
**June 11, 2019**

JUNE 11, 2019

# HOUSING STRATEGIES REPORT

GOLD BEACH, OREGON

Angelo  
planning group

As a result, no rezoning or other strategies are needed to directly address the supply of land available to meet future housing needs. However, as part of the housing planning process conducted in 2019, City staff and decision-makers noted that the City should examine the location, distribution and amount of land in all of its residential zones to make sure that the zoning designations are applied in a way that is appropriate the type of housing intended in each zone. For example, land in the 2-R zone was not explicitly looked at as a potential area for medium density housing types and may or may not be more appropriate for development of medium or higher density forms of housing.

In addition to this process, the City can consider a variety of other strategies in the future to provide opportunities for a wide range of housing choices, efficient land use, and development of housing affordable to people with low and moderate incomes. Potential strategies are summarized in the following table and described in more detail in the Housing Strategies Report prepared by the City as part of its Housing Needs Analysis project in 2019.

Strategy	Primary goal
<p><b>1. Urban Growth Boundary Amendment (UGB) or Adjustment</b> Adjust the city’s UGB to exchange land within the UGB with limited opportunities for development for land outside the UGB with a greater chance of future development. In the longer term, if the supply of land within the UGB drops below the amount needed for future development, a UGB expansion could be considered.</p>	<p>Ensure a realistic, adequate land supply for future residential development</p>
<p><b>2. Rezone Land</b> Rezone land from other residential designations and/or from commercial, industrial or institutional designations to meet specific housing needs, assuming there is an adequate supply of land available to meet non-residential needs.</p>	<p>Ensure appropriate zoning and supply of land for housing</p>
<p><b>3. Increase the Allowed Density or Range of Housing Types</b> Increase the allowed density or reduce the minimum allowed size of lots in one or more zones to allow for more compact development and/or a wider range of housing types in specific areas; expand the range of housing types allowed in one or more zones</p>	<p>Ensure appropriate zoning and supply of land for housing</p>
<p><b>4. Code Amendments for Small Housing Types</b> Zoning code and other regulatory amendments to increase housing choices and reduce barriers to development for accessory dwelling units (ADUs), tiny homes, cottage clusters, townhomes, and other “missing middle” housing types.</p>	<p>Remove regulatory barriers</p>
<p><b>5. Short-Term Rental Housing Regulation</b> Short-term rental housing can impact the supply and cost of long-term rental housing if it becomes a significant portion of the local housing supply and market and if a majority of rental housing being developed is used for that purpose. Cities can regulate the operation and amount of short-term rental housing through various procedural and development code requirements.</p>	<p>Protect affordable units and reduce displacement</p>
<p><b>6. Incentive Zoning</b> Creates incentives to developers to provide a community benefit (such as affordable housing), in exchange for ability to build a project that would not otherwise be allowed by the development code</p>	<p>Increase development flexibility / reduce housing costs</p>

<b>7. System Development Charge (SDC) Deferral</b>	Deferral of SDCs for affordable housing. Can be applied to regulated affordable housing and/or specific housing types (such as ADUs).	Reduce development costs
<b>8. Expedited Development Review</b>	Variety of strategies to reduce review and processing times for regulated affordable housing development, such as formally adopting shortened review timelines for applications or giving priority in scheduling hearings and meetings.	Reduce development costs / remove process barriers
<b>9. Tax Abatements or Exemptions</b>	Tax exemptions or abatements offer another financial incentive to developers that can improve the long-term economic performance of a property and improve its viability. This can be a substantial incentive, but the City will forego taxes on the property, generally for ten years. Other taxing jurisdictions are not included, unless they agree to participate. Tax exemption programs are authorized by the state for specific purposes: Vertical Housing; Multiple-Unit Housing; Non-Profit Low-Income.	Reduce development costs
<b>10. Public-Private Partnerships (PPPs) and Community Land Trusts</b>	Arrangements between public and private entities to create more and/or affordable housing. PPPs can promote a variety of affordable housing programs or projects and include partnerships from multiple entities (public, private, and non-profit). A community land trust (CLT) is a model wherein a community organization owns land and provides long-term leases to low or moderate-income households to purchase the homes on the land, agreeing to purchase prices, resale prices, equity capture, and other terms.	Promote construction of new affordable housing
<b>11. Tenant Protection Programs and Policies</b>	Local regulations and enforcement programs that provide protections for tenants of existing affordable housing and low cost market rate housing against evictions, excessive rent increases, discrimination, and health and safety violations.	Protect affordable units and reduce displacement
<b>12. Land Acquisition and Banking</b>	Land acquisition is a tool to secure sites for affordable housing. Land banking is the acquisition and holding of properties for extended periods without immediate plans for development, but with the intent that properties eventually be used for affordable housing.	Reduce land costs
<b>13. Construction Excise Tax</b>	Adopt a tax on new construction of between 1 and 3% to help pay for other affordable housing strategies identified here. The tax is a one-time tax assessed on new construction. State law requires it to be spent on specific types of programs and activities.	Provide source of funding for other affordable housing programs
<b>14. Financial Assistance Programs</b>	A range of tools that can be used to maintain housing affordability or to help keep residents in their homes. Possible tools include rent assistance, loans for homeowners, or assistance to low-cost apartment owners for repairs and upgrades.	Protect affordable units and reduce displacement



## 5. Short-Term Rental Housing Regulation

Short-term rental housing can impact the supply and cost of long-term rental (STR) housing if it becomes a significant portion of the local housing supply and market and if a majority of rental housing being developed is used for that purpose. Cities can regulate the operation and amount of short-term rental housing through various procedural and development code requirements. The City of Gold Beach already implements several strategies towards this end. They essentially consider STRs as a commercial use in residential zones and require that STRs be licensed. The City monitors the supply and location of STRs by regularly reviewing websites such as AirBnb and VRBO to ensure compliance with the City's licensing requirements. If the City determines that the supply of STRs is adversely impacting the supply of long-term rentals, the City could consider imposing further limitations on the location or number of STRs in the City overall or in certain areas.

## INCENTIVES

### 6. Incentive Zoning

Some development regulations can present obstacles or add costs to housing developments. In addition to or in lieu of financial incentives, the City can offer concessions on regulatory standards that provide meaningful economic value. The concessions should be offered in exchange for the development dedicating a minimum proportion of the units to be regulated as affordable to people with lower or moderate income. The incentives typically include relief from certain development standards such as parking, setbacks, or density. Examples include the following:

- **Parking reductions.** In general, research shows that households with lower incomes tend to have lower car ownerships and driving rates, particularly when residents have ready access to shopping and other opportunities and services. However, much of this research has been conducted in larger cities or metropolitan areas, rather than in cities the size of Bold Beach. A number of jurisdictions in Oregon provide reductions in off-street parking requirements for developments that are affordable to households with low or moderate incomes. Typically, developments must commit to providing affordable units over a significant length of time

(20-60 years). Prior to providing such incentives in Gold Beach, it is recommended that the City require that development applicants provide information documenting a need for fewer vehicles per resident in comparison to developments for residents in higher income ranges.

- **Height or density bonuses.** Some cities allow higher density or greater height in exchange for a commitment to provide housing units that are affordable to households with low or moderate incomes. Height bonuses are typically in terms of number of stories (e.g., one story in an area with an existing height limit of 35 or 45 feet). Density bonuses are typically stated in terms of a percentage of units (e.g., 10-20% is a common threshold). The amount of the bonus can be tied to the affordability levels provided and/or to the number of affordable units. Additionally, setback and bulk standards may be allowed to vary to accommodate the added density or to reduce development costs. A height bonus could be particularly desirable in the 2-R zone where existing maximum heights are only 25 feet.

#### 7. System Development Charge (SDC) Reductions, Exemptions, or Deferrals

System Development Charge (SDC) exemptions and deferrals can be used to reduce the cost of development. Many SDC methodologies are intended to be commensurate with the cost or impact to the system. Some missing middle housing types, such as ADUs (often associated with affordable units), do not fit within the levels within SDC methodologies because the impact of these types of housing on the need for water, sewer or transportation facilities is not equivalent to that of other housing units, given the reduced average size and occupancy of smaller units. Therefore, any reduction that can be justified based on reduced demand or impact (e.g. smaller units, multifamily vs. single family, housing types that tend to generate less traffic, etc.) is justifiable for reducing or potentially waiving SDCs for these housing types. This type of reduction is generally identified in the SDC methodology and rate setting.

Policy-based reductions, waivers, deferrals, or exemptions that do not have a basis in reduced impacts or costs are not explicitly addressed in Oregon's SDC laws, and local jurisdictions have taken a range of approaches to navigating this ambiguity. Recent state legislation enabling inclusionary zoning (Senate Bill 1533) identifies SDC and permit fee reductions or waivers as incentives that may be offered to development impacted by an inclusionary zoning requirement. This legislation also has been interpreted by some communities as authorizing SDC reductions or exemptions for affordable multifamily development. Several cities in Oregon choose to exempt certain classes of development (including regulated affordable housing) from SDC requirements. Options for Gold Beach to consider include:

- Reducing or exempting required SDCs for qualifying affordable housing developments based on a commitment to long-term affordability of the units.
- Deferring payment of all or a portion of SDCs for affordable housing developments for a specified period of time.

- Updating the City’s SDC methodology so that it better reflects the impacts of smaller housing units on system impacts, and reducing SDCs for those units accordingly.

## 8. Expedited Development Review

Jurisdictions can search for ways to reduce time and costs of the review and permitting process to developers building desired housing types. This incentive can be accomplished by reducing review times, consolidating steps in the process, and reducing or simplifying submittal requirements. In few industries is the old adage that “time is money” more true than in the development industry. The developer is often tying up capital and/or paying interest on loans during the pre-development process. Any reduction in process time translates into reduced costs and greater certainty to the developer and their partners.

Streamlining the process can involve an internal audit of the process to ensure it is efficient for both staff and applicants. This might involve making all permits available in one location with one main contact, providing clear and accessible information on requirements, and also allowing enough flexibility to consider innovative or new forms of development. Streamlining the review and permitting process is usually administratively feasible, though the greatest obstacle is often staff resources to expedite some projects when staff is already busy and/or limited in size. While City review processes could be streamlined, other regulatory review processes also impact the length of the permitting process. For example, state permitting of wetland fill or removal would also need to be streamlined to have a meaningful impact on permit review processes where wetlands are potentially impacted.

Recent statewide legislation also requires that cities with a population over 5,000, and counties with a population over 25,000 allow for 100-day review and decision on qualified affordable housing applications. This does not yet apply to the City of Gold Beach but the City could consider updating its land use application and review procedures to provide for the shortened timeline for qualified affordable housing applications in the future.

## 9. Tax Exemptions and Abatements

Tax abatements are reductions in property taxes for affordable housing. Abatements may be provided to non-profit corporations or to private developers in exchange for developing affordable housing. Property tax exemptions/freezes can also be applied to housing in distressed areas, or for rehabilitated housing. Common tax abatement programs include vertical housing programs that provide property tax exemptions for development that reaches a certain height, and multifamily housing tax exemptions.

The City of Beaverton has an Affordable Housing Tax Exemption Program designed to promote construction of affordable rental housing for low-income households (focusing on 60 percent area median income and below). The program allows an exemption of up to 100 percent of property taxes. The City of Newberg has a Multiple Unit Housing Property Tax Exemption (MUPT) that aims to encourage private development of multi-unit housing in transit-oriented areas by providing a ten-

year property tax exemption on the residential portion of improvements. Newberg also has a property tax exemption of properties owned by low-income persons or held for the purposes of developing low-income housing.

Even smaller cities, such as Yachats, have applied tax exemption programs to qualifying low-income housing projects.

## FUNDING SOURCES AND USES

### 10. Public-Private Partnerships (PPPs) and Community Land Trusts

The City can implement arrangements between public and private entities to create more and/or affordable housing. These PPPs can promote a variety of affordable housing programs or projects and include partnerships from multiple public, private, and non-profit entities such the Umpqua chapter of NeighborWorks. These efforts typically involve utilization of a variety of other housing measures or strategies, including those described in this report. Examples of these types of efforts implemented in other Oregon communities include the following:

- **The Fields Apartments, Tigard, OR.** A recent example of an innovative PPP in Tigard is The Fields mixed-use development, which is planned to include 260 housing units affordable to residents earning 60% AMI or below, including 26 units serving extremely low-income families at or below 30% AMI. The site will also include office development. To help facilitate the project, the City of Tigard worked with the property owner to pursue a grant from the Economic Development Administration that paid for infrastructure improvements to unlock the economic development potential of the site. The City also worked with the property owner to rezone the site, which allowed the apartments to be developed. As mentioned below, the Fields project received a LIFT award to assist with project financing, and the Washington County Housing Authority also contributed financing.
- **Our Coastal Village (Fisterra Gardens), Yachats, OR.** This project included use of several city, county and state programs. This included direct funding from Lincoln County to match other state, federal, and private funding sources bringing this project to fruition; tax abatement by Lincoln County; deferral of SDCs by the City of Yachats, and updates to the City's development code allowing flexible development standards for townhomes.
- **Local Innovation and Fast Track Housing Program (LIFT), State of Oregon.** LIFT is a state-administered program that was approved through legislation in 2016 and provides funding for new affordable housing across the state, including for projects by private developers. The program was developed with the goal of quickly providing affordable housing units to low-income families and has funded numerous projects since its inception, including the Fields Apartments in Tigard (provided \$9.8 million) described above and Cornerstone Apartments in Salem (provided \$4.9 million).



In addition to working with non-profit or other affordable housing developers to produce housing that meets the needs of low and moderate income households in Gold Beach, the City also can work with market rate developers to generally support residential development. Private market developers appreciate clarity and certainty in the design and permitting process. Certainty helps the developer save time, make decisions to proceed, and avoid costly surprises further along in the process. In some cases, a developer will prefer the certainty of a clear process even if it has greater requirements and fees, over a complex and unclear process with nominally lower requirements and fees. This means that City development code, review processes, permitting process, fees etc. should be as easy to understand and navigate for the developer as possible.

The City can do this in multiple ways:

- Ensure that primary documents such as the Development Code and design standards are easy to use for a person moderately informed in the design or development process;
- Provide knowledgeable staff to answer questions regarding the entire process from planning to permitting;
- Create additional materials such as one-page handouts that summarize relevant code and process information, even if it is already available in longer documents
- Provide information about code provisions and other strategies described elsewhere in this report that can serve as incentives to develop housing in places with good access to transportation, services and facilities;
- Assign a single contact person to facilitate the development process for key projects, such as a large-scale development, prominent site location, or catalyst project; and
- Provide as much of this information in advance as possible. Try to provide estimates of time, requirements and fees to the extent practicable, while emphasizing that these are all preliminary estimates that may change. Avoid processes which require developers to commit extensive time and money before key requirements or public processes become apparent.

Community Land Trusts (CLT) is a model wherein a community organization owns land and provides long-term ground leases to low-income households to purchase the homes on the land, agreeing to purchase prices, resale prices, equity capture, and other terms. This model allows low-income households to become homeowners and capture some equity as the home appreciates, but ensures that the home remains affordable for future homebuyers. CLTs may also lease land to affordable housing developers for the development of rental housing or may develop and manage rental housing themselves. Land trusts are typically run as non-profits, with support from the public sector and philanthropy, and could be linked to a land bank. Land trusts can be focused on homeownership or rental units.

We are not aware of any specific land trusts operating in the Gold Beach area. The most active CLT currently operating in Oregon is Proud Ground. Proud Ground was founded in 1999 and has grown into one of the largest community land trusts in the country. The organization focuses on affordable homeownership and controls ground leases associated with 270 homes in Multnomah, Washington, Clackamas, and Clark County. Proud Ground also offers homebuyer education and consulting

services. Approximately 81 percent of the organization’s funding is derived from public subsidy, mostly from the jurisdictions where Proud Ground operates. Habitat for Humanity also uses a similar model for conveying homes to owners and uses volunteer efforts for construction of the homes to reduce construction costs.

The City’s primary role in the CLT model would be to support an organization like Proud Ground, Habitat or similar organizations, either through financial contributions or through assistance in finding or acquiring properties for development.

## 11. Tenant Protection Programs and Policies

Tenant protections include local regulations and enforcement programs that provide protections for tenants of existing affordable housing and low-cost market rate (LCMR) housing against evictions, excessive rent increases, discrimination, and health and safety violations. Tenant protections can also provide various types of assistance to renters. The purpose of these protections is help tenants of affordable units to access and retain their housing, particularly for very low-income and other vulnerable community members. Tenant protections can be implemented through policies and/or programs. The Oregon State Legislature is currently in the process of reviewing Senate Bill 608, which would regulate some tenant protection policies statewide. With the exception of rent regulation, local jurisdictions have the ability create tenant protection regulations that go beyond state requirements as long as they do not conflict with them. Homeowner protection programs could include education as well as financial and technical assistance to stabilize and combat predation of low- and moderate-income homeowners. Rent stabilization legislation was adopted by the State of Oregon during the 2019 legislative session and the state will essentially administer associated programs. The remainder of this section focuses on other types of tenant protection programs.

*Notification for No-Cause Evictions.* Under the provisions of ORS 90.427, landlords are required to give 30- or 60-day notification of no-cause evictions. Previously, some jurisdictions, including Portland and Milwaukie, increased the no-cause eviction notice to 90-day. However, Senate Bill 608, mandates a 90-day notice for no-cause eviction statewide. Senate Bill 608 was passed on February 28, 2019 and is effective immediately.

*Renter Relocation Assistance.* These programs require landlords to pay a set amount to assist tenants when lease conditions change—such as no-cause eviction, substantial rent increase, or not receiving the option to renew a lease. Relocation assistance programs have been implemented by the cities of Portland, OR and Vancouver, BC during the last several years. Recent state legislation also addresses these programs.

*Rental Registration.* These programs allow jurisdictions to keep an accurate inventory of residential rentals. A well-maintained inventory can help improve notification of changes to local landlord-tenant laws. Also, the program helps monitor and protect tenants while requiring more responsibility and accountability from landlords.

*Rental Inspection Program.* Rental inspection programs monitor rentals to protect tenants and require more accountability from landlords. Inspection programs can be combined with a registration program or stand-alone. Also, the types of housing or dwellings that a required to register for the

program can vary to all housing, affordable housing, multi-family housing, or other criteria. Several Oregon jurisdictions have rental inspection programs, including the cities of Gresham and Salem.

Several of these programs require relatively significant administrative time and resources and may not be appropriate for the City as this time but could be considered for implementation in the future.

## 12. Land Acquisition and Banking

**Land acquisition** is a tool to secure sites for affordable housing. Public agencies can identify locations where prices are going up and acquire land before the market becomes too competitive, with the intention to use the land for affordable housing. The ability to identify promising sites within these locations and act quickly and efficiently in acquiring them can tip the scales to make an affordable housing development financially feasible.

**Land banking** is the acquisition and holding of properties for extended periods without immediate plans for development, but with the intent that properties eventually be developed for affordable housing. Land banks are often quasi-governmental entities created by municipalities to effectively manage and repurpose an inventory of underused, abandoned, or foreclosed property. Public agencies or larger nonprofits may be better equipped than small community development corporations to do both land acquisition and banking.

This strategy may be a challenge for implementation in Gold Beach. Key challenges for land acquisition include reliably identifying future areas of gentrification before prices go up, developing the resources necessary to purchase the land, creating mechanisms for easy land transfer and removing the liability associated with holding land. Land banking requires significant up-front investment to acquire land, which typically requires grants, and funding partnerships—with nonprofits, public entities, and private financing—to reach necessary funding levels. In addition, while this technique can help address the long-term need for affordable housing, it will not address the current need in the short-term.

A more feasible way to implement this strategy in Gold Beach would be to assess the potential for any existing city-owned properties to be used for affordable housing development in the future and then seek non-profit or other affordable housing developers to lead the actual development efforts. In exchange for donating or selling city-owned land at a nominal price, the City would require a commitment to long-term affordability of any housing units developed.

## 13. Construction Excise Tax

A construction excise tax (CET) is a tax on construction projects that can be used to fund affordable housing. According to state statutes, the tax may be imposed on improvements to real property that result in a new structure or additional square footage in an existing structure. Cities and counties may levy a CET on residential construction for up to 1% of the permit value; or on commercial and industrial construction, with no cap on the rate of the CET.

The allowed uses for CET funding are defined by the state statutes. The City may retain 4% of funds to cover administrative costs. The funds remaining must be allocated as follows, if the City uses a residential CET:

- 50% must be used for developer incentives (e.g. fee and SDC waivers, tax abatements, etc.)
- 35% may be used flexibly for affordable housing programs, as defined by the jurisdiction.
- 15% flows to Oregon Housing and Community Services (OHCS) for homeowner programs.

If the City implements a CET on commercial or industrial uses, 50% of the funds must be used for allowed developer incentives and the remaining 50% are unrestricted.

To date, eight jurisdictions (Portland, Corvallis, Cannon Beach, Hood River County, Hood River City, Milwaukie, and Newport) have passed local CETs under the new state statutes, and many others are considering adopting the tool.

The primary advantage of a CET is that it would provide a source of funding for other programs or measures aimed at helping subsidize the cost of affordable housing in Gold Beach, either through city-led programs or those implemented by private or non-profit partners. In addition, once a CET is established, it would be straightforward to administer through the development permitting process. On the down side, CET increases development costs in an environment where many developers are already seeking relief from systems development charges, so it could impact development feasibility and increase the costs of housing more generally. However, by structuring the policy with offsetting incentives or tools to reduce development barriers, the City could potentially limit the impact on feasibility for certain projects.

Establishing a construction excise tax would necessitate that the Gold Beach City Council pass a new City ordinance. The City should work closely with the development and housing community in developing the fee structure. Implementing programs would need to be developed, and possibly coordinated with housing partners.

**Attachment B.**  
**City of Cottage Grove Housing Strategy**  
**June 2019**

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# Cottage Grove Housing Strategy Task 3: Implementation Plan

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June 2019

Prepared for:

City of Cottage Grove  
and the  
Department of Land Conservation and Development

**ECONorthwest**  
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This project is funded by a grant from the Oregon Department of Land Conservation and Development (DLCD). The contents of this document do not necessarily reflect the views or the policies of the State of Oregon.

ECONorthwest prepared this report for the City of Cottage Grove. It received substantial assistance from City staff. That assistance notwithstanding, ECONorthwest is responsible for the content of this report. The staff at ECONorthwest prepared this report based on their general knowledge of housing and development economics, and on information derived from government agencies, private statistical services, the reports of others, interviews of individuals, or other sources believed to be reliable. ECONorthwest has not independently verified the accuracy of all such information, and makes no representation regarding its accuracy or completeness. Any statements nonfactual in nature constitute the authors' current opinions, which may change as more information becomes available.

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# Introduction

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Like communities throughout Oregon, residents in the City of Cottage Grove are facing housing affordability challenges. Vacancy rates have decreased, rents have increased, and families are having a harder time finding housing that meets their needs. The City’s 2018 Housing Needs Analysis anticipates that the city will continue to face a shortage of housing affordable for low- and middle-income households. The city will need more multifamily housing, townhomes, and other types of housing that tend to cost less to buy or rent. To meet the needs of new residents and maintain affordability for existing residents, the City of Cottage Grove is interested in taking steps to encourage the production of new housing.

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In the next 20 years, the City is planning for **3,242** new people and **1,379** new housing units (69 new dwelling units annually, on average).

*Source: Cottage Grove Housing Needs Assessment (2018)*

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## Background

The City completed a Housing Needs Analysis (HNA) in 2018; the HNA is adopted as a background report to the City’s Comprehensive Plan. The HNA includes several recommendations to address housing need in the city. Oregon House Bill 4006, passed in 2016, provided an opportunity to develop a housing strategy that builds on the HNA recommendations. The bill established new requirements for cities with a population over 10,000 people that have extreme rent burdens, where greater than 25% of renter households pay more than 50% of their monthly income toward housing. As of 2017, Cottage Grove was one of these cities. The bill also provided grant funding for local governments to update housing plans, amend development codes, and develop implementation strategies to increase the affordability of housing and to reduce rent burden for severely rent burdened households. The City of Cottage Grove received a grant from the Oregon Department of Land Conservation and Development (DLCD) to fund consultant services to support the City in developing a housing strategy and implementation plan. DLCD selected ECONorthwest to assist the City with this effort.

## Overview of this Report

The recommendations from the HNA are summarized in Exhibit 1 along with an explanation of how this report advances those recommendations to implementation.

### Exhibit 1: Housing Needs Analysis Recommendations and Report Focus

HNA Recommendation	How Addressed in this Report
Begin conversations with the South Lane School District to explore housing development on sites that may be declared surplus by the District	Explores how the City can partner with the School District to support housing development on surplus properties with a near-term focus on the old Harrison Elementary School site, which has already been replaced by a new school.
Adopt amendments to the development code to facilitate housing production	Explores the need for code amendments in the residential zones in the context of appropriate zoning for the Harrison Site and how a range of housing types fit within the current residential zones.
Explore new programs like property tax abatements and programs that allow developers to pay System Development Charges (SDCs) later in the development process	Evaluates several property tax abatement programs that can support specific types of housing.  (The City is planning for a major update to SDC rates and methodology and hopes to address deferrals, waivers, etc. through that process.)
Identify or establish local sources of funding to support affordable housing development, such as a Construction Excise Tax (CET)	Evaluates how the City could use Urban Renewal as a local funding source for housing. Other possible local funding tools are summarized briefly in Attachment A.

This report is organized around three key strategies for evaluation:

1. Partnering on surplus school district property
2. Using urban renewal to support the City's housing goals
3. Potential property tax abatements for certain types of housing

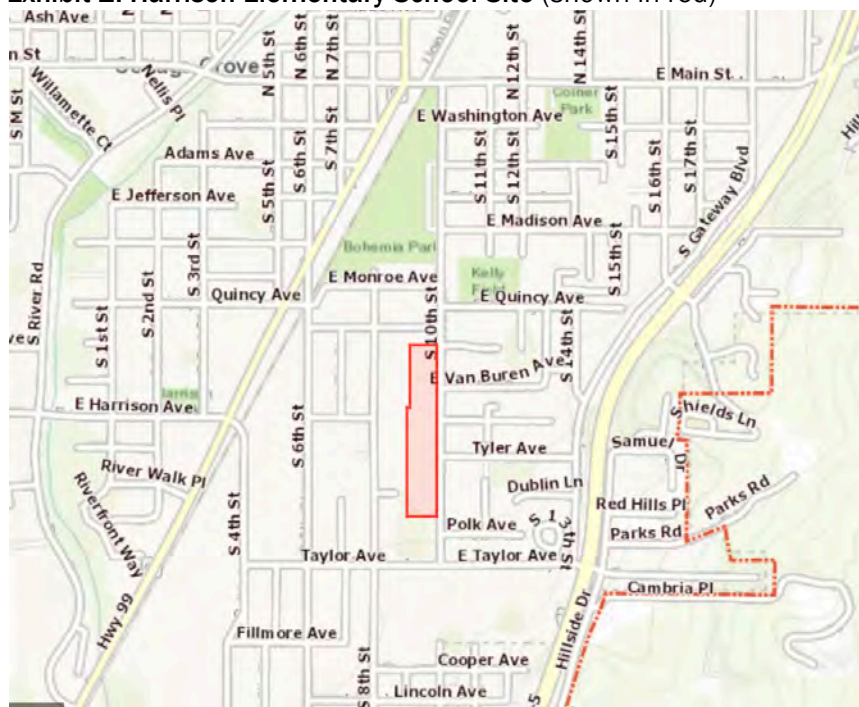
For each strategy, this report provides an analysis of the role the strategy could play in incenting affordable housing or providing funding for affordable housing, evaluates how impactful the strategy is expected to be, and lays out next steps and key considerations for successful implementation. The conclusion section suggests how the City should prioritize and phase implementation of the strategies. This report is not a component of the Comprehensive Plan. Rather, it provides direction for City officials and staff about how best to implement several priority housing strategies.

# Strategy 1: Partnering on Surplus School District Property

## Context

The South Lane School District is considering selling the site of the former Harrison Elementary School for housing development. The school was relocated to a new, larger facility in September 2018 with funding from a bond measure passed by voters.<sup>1</sup> The 6.84-acre former Harrison school site is close to the city’s downtown and surrounded by residential neighborhoods, making it an attractive location for residential development. Given the cost to maintain the property and flat or declining enrollment projections, the School District is considering selling the site in the near future. However, the current school building contains asbestos and would need to be abated and demolished prior to redevelopment.

**Exhibit 2. Harrison Elementary School Site (shown in red)**



Source: Lane County Maps  
(<https://lcmapping.lanecounty.org/LaneCountyMaps/LaneCountyMapsApp/index.html?research=2003332400100&slayer=0>)

The School District is interested in seeing the site redevelop with housing that is affordable to and suitable for families with school-aged children or School District staff. The School District also seeks to receive a fair value for the land to provide funding for its mission of providing

<sup>1</sup> Alisha Roemeling, “Voters approve three out of four local bond measures for schools,” *Eugene Register-Guard*, May 18, 2016. <https://www.registerguard.com/article/20160518/NEWS/305189970>.

quality education. The City is hoping the site can help meet the community’s growing need for multifamily housing, townhomes, or other lower-cost types of housing. The Harrison site is one of the larger pieces of available residential land near downtown and presents a unique opportunity to expand local housing supply in ways that meet both City and School District goals.

The City is coordinating with the School District regarding next steps for the Harrison site. They are also thinking longer term—the South Lane School District owns other land in the City of Cottage Grove that could be declared surplus in the coming years. Both the City and District are looking to the Harrison site as a test case and a model for how best to transition surplus lands to productive new uses.

## Components of the Strategy

The two key issues for the Harrison site from the City’s perspective are the appropriate residential zoning that should apply to redevelopment and the approach to finding a developer for the site.

**Zoning and appropriate housing types.** The site is currently zoned Low Density Residential (R-1), but the School District has applied for a zone change to increase the density. The Planning Commission and City Council will decide the outcome of the zone change. ECONorthwest worked with staff and the Housing Advisory Committee to provide information to support decision-making about the appropriate zoning designations, including:

- **Site Capacity:** ECONorthwest estimated the potential number of units that could be built on the site under existing and higher density zoning.
- **Affordability:** ECONorthwest evaluated how the likely price-points for a range of housing types might align with what households in Cottage Grove might be able to afford.
- **Scale and Compatibility:** ECONorthwest, with help from the Advisory Committee, gathered images to illustrate a range of housing types that could be considered on the site.

**Disposition and development strategy.** ECONorthwest outlined options for how the City could assist with finding a developer for the property or play a role in the future development of the site, laying out trade-offs and decision points for those options.

## Zoning and Appropriate Housing Types

Cottage Grove has three residential zones that allow different types of housing at different densities. Which of these zones would be most appropriate for the Harrison site depends on City and School District desires for density and alignment with goals for lower-cost housing choices that are affordable—and appealing—to young families and District staff.

The three existing residential zones are summarized in Exhibit 3.

**Exhibit 3: Summary of Residential Zones**

Zone	Permitted Housing Types	Min. lot size (sf) for single family	Max Height	Max. Lot coverage	Density (min. units per acre*)	Density (max. units per acre*)
<b>Single Family Residential (R-1)</b>	Single family detached, Accessory Dwelling Units, Manufactured Homes, Duplex (one on a lot), Single Family Attached. Cottage Cluster considered as a conditional use.	6,000	28	0.4	4	6
<b>Multifamily Residential (R-2)</b>	Single family detached, Accessory Dwelling Units, Manufactured Homes, Duplex (one or several on one lot), Single Family Attached, Multifamily with 3 or more units. Cottage Cluster considered as a conditional use.	5,500	35	0.5	6	12
<b>Multifamily Residential (R-3)</b>	Duplex (several on one lot), Single Family Attached, Multifamily with 3 or more units. Cottage Cluster considered as a conditional use.	N/A	40	None	10	None**

\* Density is measured on the total acreage of the site, before subtracting any land needed for roads or other non-developable areas.

\*\* There is no maximum density in dwelling units per acre in the R-3 zone; however, the height limit and parking requirements effectively limit the density to about 60-80 units per acre (depending on the unit sizes and types) for a three-story apartment. Other housing types range from about 21 units per acre for townhomes to 30-35 units per acre for smaller multifamily types.

Source: ECONorthwest summary of City of Cottage Grove development code, Chapter 14.22 Residential Districts, Tables 14.22.110 and 14.22.120.

### Affordability Analysis

To understand which housing types and densities would be affordable to existing and future Cottage Grove residents, ECONorthwest created hypothetical example buildings or developments (“prototypes”) for a range of housing types:

- 2- and 3-story walk-up apartments
- Townhomes
- Cottage cluster – detached
- Cottage cluster – attached
- Stacked flats – “six-plex”
- Duplex
- Single-family home on small lot
- Single-family home on large lot

We customized these prototypes to be consistent with the residential zoning designations in Cottage Grove, including creating multiple variations for housing types that are allowed in

multiple zones subject to different lot size or other development standards, and used local estimates of construction and land costs. Results are shown in Attachment A.

Example images of a similar range of housing types are included in Attachment C.

To illustrate the range of housing needs the City and District are trying to meet on this site, we envisioned example households that reflect the School District's housing priorities (families with children and District staff). These provide plausible, illustrative examples of the range of incomes, household sizes, and housing preferences for future households. We calculated the maximum monthly housing cost that would be affordable to each household based on the federal standard of no more than 30% of income spent on housing (rent or mortgage payments plus insurance and property taxes).<sup>2</sup> The assumed household composition and employment situations, total household income, maximum affordable rent and home prices, and range of suitable and attainable housing types for each example household are shown in Attachment D.

New construction tends to be more expensive than older housing, but when comparing among various types of new construction, our analysis showed that smaller, attached units and cottage cluster housing are more likely to be affordable to middle-income families than larger unit types. However, these are not likely to be affordable to the lowest-income households without subsidy. Several housing types with a small private or shared yard (e.g., townhomes, detached and attached cottage clusters, and duplexes) could be both affordable and appealing to moderate-income households with children. Only higher-income households are likely to be able to afford new single-family detached housing.

## Analysis of Site Capacity for Housing

The housing type and density allowed by the zoning on the site also determine how much housing can be built on the site (site capacity). The more housing the site can accommodate, the more it can expand the available housing options and ease pressure on the housing market.

Based on the current residential zoning standards, ECONorthwest estimated the number of units that could be built on the site under different zoning options. In addition to calculating the minimum and maximum number of units allowed by zoning, we used the housing prototypes and their densities to estimate the likely housing capacity on the site under each zone for a reasonable mix of the allowed housing types in the zone. The results are summarized in Exhibit 4.

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<sup>2</sup> This general guideline is widely used, but imperfect. Individual financial circumstances vary widely (e.g., student loan or car payments, childcare costs, healthcare costs, etc.) even for households of the same size and income level. For some households, 30% of income may feel uncomfortably high. Higher-income households tend to spend less than 30% of their income on housing, while lower-income households often have to spend more to have a place to live. Still, it is useful as a reference point and a general indicator of affordability.

A zone change from R-1 to R-2 would double the maximum development capacity of the site and allow for a wider range of housing types. However, the maximum allowable density is still fairly low, and the site could still be developed entirely with single-family housing on fairly standard lot sizes. A change to R-3 would increase the maximum allowed development potential even more but would not allow single-family detached housing. It is unlikely that the full 6.84 acres would be developed as garden apartments (the highest density option available in R-3). The projected capacity with R-3 zoning reflects a mix of townhomes, lower density multifamily types, and a small amount of garden apartment development.

**Exhibit 4: Estimated Housing Capacity on Harrison Site by Zone**

Zone	Min. lot size (sf) for single family	Max Height	Max. Lot coverage	Density (min. units per acre*)	Density (projected blended average)	Density (max. units per acre*)	Min units	Units (projected)	Max units
Single Family Residential (R-1)	6,000	28	0.4	4	5.9	6	27	40	41
Multifamily Residential (R-2)	5,500	35	0.5	6	10	12	41	68	82
Multifamily Residential (R-3)	N/A	40	None	10	28	None**	68	191	TBD***

\* Density is measured on the total acreage of the site, before subtracting any land needed for roads or other non-developable areas.

\*\* There is no maximum density in dwelling units per acre in the R-3 zone; however, the height limit and parking requirements effectively limit the density to about 60-80 units per acre (depending on the unit sizes and types) for a three-story apartment. Other housing types range from about 21 units per acre for townhomes to 30-35 units per acre for smaller multifamily types.

\*\*\* It is very unlikely that the full 6.84 acres would be developed as garden apartments (the highest density option available).

Source: ECONorthwest calculations and City of Cottage Grove Development Code

Neither the R-2 nor the R-3 zone is a perfect choice for the site. In R-2, the maximum density is too low to develop townhomes or multifamily efficiently, the lot size for single-family detached homes is too high to enable compact detached housing, and cottage cluster housing requires a conditional use review. The R-3 zone allows an appropriate range of density, but does not allow detached housing, except in the form of cottage cluster (which is a conditional use) or multiple detached homes on a single lot. To enable efficient development of a range of housing types on the Harrison site, the zoning should allow a mix of housing types like the R-2 zone but at higher densities and with smaller lot sizes, and allow cottage cluster housing subject to reasonable design standards.



Based on the most recent information from the School District, the District intends to request a zone change to R-2, though a developer could request a zone change to R-3 on all or a portion of the site. Regardless of which zone is ultimately applied to the site, the City should initiate code amendments to the R-2 and R-3 zones to enable and encourage more efficient development.

## Recommendations and Next Steps

- **Continue the legislative zone change process for the Harrison site.** This will follow the standard procedures for a legislative zone change, including Planning Commission and City Council hearings.
- **Advance code amendments in the residential zones to enable and encourage more efficient development.** This will require a number of next steps for the City, including:
  - Allocating staff time to work on code amendments and outreach
  - Budgeting or applying for grant funding if needed for consultant support
  - Initiating a Task Force to provide input into the amendments
  - Generating a discussion draft of the potential code amendments
  - Depending on the scope of the draft amendments, broader public engagement may be warranted
  - Measure 56 notice<sup>3</sup> may be required depending on the nature of the amendments
  - Adoption process, including Planning Commission and City Council hearings

## Disposition and Development Strategy

The School District has stated that it is likely to move forward with selling the Harrison site. There are several approaches to site disposition (i.e., sale) that the District could take, some of which could benefit from or require City assistance or leadership. Key factors that influence decision about strategies are:

- Neither the District nor the City currently has interest in long-term ownership of the property. Neither are they interested in serving directly as the site developer.
- City staff has experience with site preparation (installing infrastructure) and managing a request-for-proposals (RFP) process for site disposition that may be useful to the School District, which does not have this experience recently.
- The School District has a responsibility to derive a fair purchase price for the property so that the funds can go toward District needs and goals.

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<sup>3</sup> Oregon's Ballot Measure 56, passed in 1998, requires cities and counties to provide affected property owners with notice when proposing a change in the zoning classification for their property or when proposing to adopt changes to the underlying zone that limit or prohibit previously allowed uses.

- The School District also cares about how the site is redeveloped and may consider restrictions on its future development to ensure consistency with the District's goal to provide housing for staff and families.
- The City currently has limited funds available for acquisition, site preparation, or grants/loans to support future development on the site. The City is considering adopting urban renewal (as discussed under Strategy 2); however, even if an urban renewal area includes this property and the urban renewal plan targets funds toward these activities, it will be years before any funding is available.

Exhibit 5 outlines several options for the City's role in the site disposition and development process, along with the pros and cons of each. Even if the City does not play a role in disposition of the Harrison site, these options may be useful to consider for future surplus property opportunities.

## Exhibit 5: Options for City Role

City Role	Pros	Cons
<b>Support the School District in managing an RFP process for site disposition and development</b>	<ul style="list-style-type: none"> <li>▪ The City could supplement the School District's staff capacity and expertise to assist with disposition.</li> <li>▪ Does not require direct funding from the City.</li> <li>▪ The City and School District share some common goals for the site.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The District would retain decision-making authority for the eventual site disposition.</li> </ul>
<b>Acquire a transferrable option<sup>4</sup> and administer an RFP process with the City as the decision-maker</b>	<ul style="list-style-type: none"> <li>▪ The City could use the option period to gather additional information, issue an RFP, and select a developer partner.</li> <li>▪ The City would have more control over the timing and outcome of the disposition and developer selection process.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The City would likely either have to temporarily assume responsibility for property maintenance or share the cost of that maintenance through the cost of the option.</li> </ul>
<b>Acquire the property directly and transfer it to a developer</b>	<ul style="list-style-type: none"> <li>▪ City would have more control over the timing and outcome of the disposition and developer selection process.</li> <li>▪ If funding permits, the City could hold the property until the right development partner emerges.</li> <li>▪ If funding permits, the City could write down the cost of the land and give it to a nonprofit affordable housing developer.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Requires a substantial financial outlay from the City. Without urban renewal in place, the City may not have enough money to acquire the site.</li> <li>▪ A downturn in development activity may prevent quick disposition of the site requiring the City to landbank the site for several years.</li> <li>▪ Requires staff capacity and expertise to manage the acquisition, management, and disposition of the land.</li> </ul>
<b>Offer grants or loans to a private or nonprofit purchaser/ developer of the property to support specific types of housing development on the site</b>	<ul style="list-style-type: none"> <li>▪ Offers the ability to incent and support specific types of housing that align with City goals.</li> <li>▪ May require less investment than land acquisition.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Requires a locally-controlled funding sources that can be dedicated to housing investment.</li> <li>▪ If loans, requires staff capacity and expertise to establish loan terms.</li> <li>▪ Available funds may not be enough to incent the desired outcome, or a developer may choose to build something that does not qualify for the grants or loans.</li> </ul>
<b>Adopt one or more property tax abatement programs (discussed under Strategy 3) that could be applied on the site as an incentive to produce certain types of housing</b>	<ul style="list-style-type: none"> <li>▪ Does not require direct up-front funding from the City.</li> <li>▪ Offers some financial incentive for desirable development types.</li> <li>▪ Could advance regardless of which of the above disposition methods is selected.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Programs are voluntary and developers may choose not to participate and not develop an eligible project.</li> <li>▪ City would forego some property tax revenue.</li> <li>▪ Tax incentives may not be enough to make desired development feasible.</li> </ul>

<sup>4</sup> A real estate purchase option is a contract on a property that allows the buyer to pay for the exclusive right to eventually purchase the property. The option usually includes a predetermined purchase price and is valid for a specified term (usually six months or a year), within which time the buyer can exercise the option and the property owner is obligated to sell based on the terms laid out in the option contract. During this time, the property owner cannot sell the property to another party. If the option period expires, the buyer does not have to buy the property, but there is no refund of the money spent on the option. A transferrable option means that the potential buyer can transfer the right to buy the property according to the terms of the contract to another party.

## Recommendations and Next Steps

- Continue coordination with the School District on the Harrison site disposition in a support role unless the School District requests assistance with an RFP process.
- Explore additional, more pro-active options for other School District properties under consideration for disposition.
- Consider involving University of Oregon students in generating site design concepts for School District properties under consideration for disposition.
- *See Strategy 3 for recommendations related to property tax abatement.*

# Strategy 2: Urban Renewal as a Housing Implementation Tool

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## Overview

While the Harrison site provides a specific opportunity to increase the housing supply, urban renewal offers an opportunity to establish a source of local funding, some of which could be directed toward housing development that needs public support in order to be feasible. (This could include regulated affordable housing development or market-rate development that advances the City's housing goals but is not viable under current market conditions.)

Urban renewal uses tax increment financing (TIF) to fund investments in a specific area that enable and encourage greater private investment in properties in the area. Those investments in turn result in property tax revenue growth. TIF revenues are generated by the increase in total assessed value in an urban renewal district from the time the district is first established. As property values increase in the district, the increase in total property taxes (i.e., city, county, and other district portions) is used to finance identified projects inside the URA, often using bonds. When the bonds are paid off, the entire valuation is returned to the general property tax rolls.

TIF is one of the more powerful locally-controlled funding tools available to Oregon cities. Many cities throughout Oregon have adopted urban renewal plans to help spur development, including new housing, in their communities. Urban renewal funds can be invested in the form of low interest loans and/or grants for a variety of capital investments:

- Redevelopment projects, such as mixed-use or infill housing developments
- Economic development strategies, such as capital improvement loans for small or startup businesses which can be linked to family-wage jobs
- Streetscape improvements, including new lighting, trees and sidewalks
- Land assembly for public as well as private re-use
- Transportation enhancements, including intersection improvements
- Historic preservation projects
- Parks and open spaces

The City of Cottage Grove is considering urban renewal as a tool to fund improvements recommended during a recent Main Street study and is also exploring how urban renewal could support the development of new affordable and market-rate housing in the city.

## Potential Housing Implementation Projects

Urban renewal agencies can support housing development through the following types of investments:

- **Grants and loans to support building construction:** Urban renewal agencies can directly subsidize development projects by providing grants or loans for building construction.
- **Site acquisition and disposition:** Urban renewal agencies can purchase and hold on to land to sell for housing development. In these instances, the sale process includes a disposition and development agreement (DDA) that stipulates specific requirements that the developer must adhere to during property development.
- **Predevelopment studies:** Urban renewal funds can pay for market studies and due diligence to assist developers in identifying property development opportunities within the urban renewal area.
- **Property rehabilitation:** Agencies can provide grants or loans to property owners that are interested in rehabilitating property within the urban renewal area. For example, an agency can provide grants for a property owner to renovate a building to add new housing or to improve a dilapidated or outdated building. Some projects qualify for other funding, like Oregon Housing and Community Services funding, that the property owners can leverage in addition to urban renewal funds.
- **Site preparation:** Urban renewal funds can support grading or brownfield remediation work on properties to prepare for development.
- **Systems Development Charge (SDC) funding:** Communities throughout Oregon require developers to pay for one-time SDCs when developing or redeveloping property. Depending on the community, these can include charges for road infrastructure, parks, schools, sewer/stormwater infrastructure, and water infrastructure. To improve project feasibility, urban renewal agencies can help offset some or all of the SDCs that otherwise would have accrued to the project.
- **Infrastructure provision:** This is arguably the most common use of urban renewal funds: to directly pay for any necessary infrastructure improvements that help to catalyze housing development on a site. These can include transportation enhancements, parking infrastructure, and utility extensions (wastewater, gas, electric, drinking water, green infrastructure).
- **Parks and open space:** Urban renewal agencies have contributed to open space projects, including plazas, parks, and trails as part of a complete neighborhood plan. Funding can go toward land acquisition, planning, infrastructure provision, and facilities. While not directly a housing project, parks investments can help make an area attractive for private housing development.

Examples of how communities around Oregon have used urban renewal to support affordable and market-rate housing development in key redevelopment areas are provided in Attachment E.

## Recommendations

Among the options listed above, the Housing Advisory Committee recommended a focus on the following types of housing investments if an eventual urban renewal area is formed:

- Grants for regulated affordable housing<sup>5</sup>, since there are few other funding sources available locally to support regulated affordable housing development and there is a need for more housing available to the lowest-income residents in Cottage Grove.
- Low-interest loans for market-rate housing or to assist with site acquisition, to help overcome financing barriers for market-rate development.
- Grants or loans for property rehabilitation, including for adding housing on the upper stories of existing buildings, to support improving the quality of the existing housing stock.
- Site acquisition/disposition, preparation, and/or installing infrastructure on land intended for residential development, to help overcome some of the largest up-front costs that can create obstacles to development.
- Predevelopment studies to provide market data to potential developers to help attract developers to a smaller market.

These investments could provide gap funding to help leverage state and federal affordable housing funding and stimulate market-rate housing development in target areas. Their impact will depend on the amount of funding allocated to them and the timing of when the funds are available.

## Next Steps and Considerations for Successful Implementation

Should the City of Cottage Grove decide to move forward in creating an urban renewal plan, it would undertake a formal process over the course of 9 to 12 months. Pursuing a full urban renewal plan requires specific actions that meet the statutory requirements governing urban renewal in Oregon. Exhibit 6 shows a common approach beginning with a preplan process that outlines potential projects, boundaries and TIF projections. The preplan process can take months or years, and sometimes takes several iterations before the community is ready for a full plan process.

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<sup>5</sup> If the City funds nonprofit affordable housing that does not pay property taxes, the investment will not lead to an increase in property tax revenue. This can still be an appropriate use of urban renewal funds, but should be considered in TIF projections.

**Exhibit 6. Urban Renewal Plan Development Process**



Source: ECONorthwest

As the City moves through its decision-making process, key considerations will include:

- **What are the City’s priorities for urban renewal?** The City has competing goals for potential urban renewal funding (e.g., downtown revitalization, rehabilitation of existing commercial areas, and supporting housing development). Clarifying these goals early on will help focus the planning effort. Even if the focus is ultimately on revitalizing downtown or other existing commercial areas, encouraging housing development in those places could be part of the revitalization strategy while also increasing the housing supply and range of housing options.
- **What should the boundary look like?** The City’s multiple goals have implications for the boundary. The boundary must be contiguous and cannot include more than 25% of the city,<sup>6</sup> but can include cherry-stems and could be drawn to advance multiple goals. For housing purposes, the City could consider including sites (such as school district surplus sites) that present an opportunity for new housing development, particularly if public funds may be needed to support redevelopment. As noted above, if the boundary focuses on downtown or other existing commercial areas, there may still be opportunities for housing development.
- **Are the potential TIF revenues sufficient to fund key projects when they are needed?** The City will need to assess projected TIF revenues and compare against the costs of key projects, including any funding that will be directed towards housing. Additional funding sources may be necessary to fully fund key projects and costs that are not well-suited to urban renewal funding.
- **Will the taxing jurisdictions support the plan?** If urban renewal successfully stimulates growth in assessed value, all taxing districts could benefit long-term from higher tax

<sup>6</sup> There is a statutory limit on the percentage of the city’s acreage and its assessed value that can be included in the boundary (25% in both cases).



revenues after the urban renewal area expires. However, these jurisdictions will forgo revenue during the life of the urban renewal district. Coordination with the other taxing districts is an essential part of developing an urban renewal plan.

The City intends to move forward with an urban renewal study in the next fiscal year, which would address these key questions, clarify the role of a potential URA in supporting housing development, and set the stage for adopting an urban renewal plan.

# Strategy 3: Property Tax Abatement Programs

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## Overview

There are multiple property tax abatement programs available in Oregon that are applicable to housing, each with different criteria, implementation processes, and abatement allowances.

- **Vertical Housing Development Zones (VHDZ):** Incent multi-story mixed-use development by offering a partial property tax exemption for 10 years to developments that include housing as well as non-residential use (e.g. retail on the ground floor), with a larger tax exemption for higher density developments.
- **Multiple Unit Property Tax Exemption (MUPTE, sometimes called MULTE):** A flexible program that can be used to incent multifamily housing with particular features or at particular price points by offering qualifying developments a partial property tax exemption for 10 years (or longer for affordable housing).
- **Temporary exemption for newly rehabilitated or constructed multiunit rental housing:** Incent development or rehabilitation of multifamily rental housing with rents affordable to households with an annual income at or below 120% of the area median income (AMI) citywide through a full property tax abatement for no more than 10 years.
- **Nonprofit Low-Income Rental Housing Exemption:** Provides a simplified way for affordable housing owned and operated by a nonprofit to qualify for a full property tax exemption. (There is also a similar program that applies to all low-income rental housing whether or not it is owned by a nonprofit.)

The tax abatements are described in greater detail below, along with suggestions for whether and how they could apply in Cottage Grove.

## Vertical Housing Development Zones (VHDZ)

### How it Works

This program incentivizes mixed-use development and affordable housing by partially exempting property taxes for qualifying projects. The exemption varies in accordance with the number of residential floors in a mixed-use project; the maximum property tax exemption is 80 percent of the residential improvement value over 10 years. An additional property tax exemption on the land may be given if some or all of the housing is for low-income persons (80 percent of area median income or below). There is no tax exemption on the non-residential component.

Before a city or county can grant an exemption for an eligible development project, they must establish a VHDZ. Per state statute, jurisdictions must consider the potential for displacement<sup>7</sup> of households within a proposed vertical housing development zone before designating the zone. Once the VHDZ is established, the developer may apply for the city's Vertical Housing Tax Abatement Program.

## Pros and Cons

### Pros:

- Targeted tool to support mixed-use development in places with locational advantages.
- Overlapping taxing districts must take action to opt out, rather than having to take affirmative action to approve zone designations and project applications.
- Offers incentives for market-rate, mixed-income, and affordable housing, with greater incentives for affordable/mixed-income housing.
- Incentivizes higher density development as well as mixed-income development.

### Cons:

- May provide insufficient incentive to lead to affordability unless paired with other tools.
- Requires retail space, which may not be viable or appropriate for all projects.
- Can't qualify until project is under construction—creates uncertainty for developer & lenders
- Reduces general fund revenues for all overlapping taxing districts (unless they opt out).

### Best for:

- Encouraging mixed-use development in locations where ground floor commercial uses are essential to the vision and mixed-use is not economically feasible yet.

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<sup>7</sup> According to the relevant statute (ORS 307.841(2)): "Displacement" means a situation in which a household is forced to move from its current residence due to conditions that affect the residence or the immediate surroundings of the residence and that: (a) A reasonable person would consider to be beyond the household's ability to prevent or control; (b) Occur despite the household's having met all previously imposed conditions of occupancy; and (c) Make continued occupancy of the residence by the household unaffordable, hazardous or impossible.

In evaluating this issue for other communities, ECONorthwest has considered the potential for displacement because of redevelopment of existing housing with new development using the VHDZ program ("direct displacement"), and the potential that the presence of new development that uses the VHDZ program could encourage property owners to increase rents in existing housing to a degree that the households can no longer afford them ("indirect displacement").

## Potential Application on Cottage Grove

Cottage Grove already has a Vertical Housing Development Zone (in Cottage Grove, it is referred to as a “Vertical Housing Tax Credit”) in place on both sides of Main Street from I Street to Gateway Blvd. <sup>8</sup>

## Multiple Unit Property Tax Exemption (MUPTE)

### How it Works

Through a multiple unit property tax exemption, a jurisdiction can encourage multifamily and attached housing in specific locations lacking in housing choices, or inclusion of units with below-market rents. The abatement applies to improvement value only and lasts for 10 years, except for affordable housing, which lasts as long as the affordability restriction lasts. Though the state enables the program, each city has an opportunity to shape the program to achieve its goals by controlling the geography of where the exemption is available, application process and fees, program requirements, criteria, and program cap. The city can select projects on a case-by-case basis through a competitive process. Those applicants must show that the housing would not be feasible without the abatement.

### Pros and Cons

#### Pros:

- City sets eligibility criteria and controls application process and project selection.
- Program is flexible to support various objectives related to encouraging housing.
- Tax abatements can contribute to the feasibility of both market-rate and regulated units. Saving on operational costs contributes to greater net operating income, which is important in determining project value and subsequently the development feasibility.
- The city can use the abatement program to incent private development to include some affordable units, or to incent higher density housing or other specific types of housing not being delivered by the market.
- Since applicants need to prove that the project would not be feasible without the exemption, the funding only goes to developments that would not have otherwise occurred.
- Property owner can apply by the February before first assessment year of requested exemption. Construction need not be complete.
- The city can set an annual cap on the total amount of tax exemptions in any given year for all projects.

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<sup>8</sup> <https://www.cottagegrove.org/cd/page/vertical-housing-tax-credit>

## Cons:

- May provide insufficient incentive to lead to affordability unless paired with other tools.
- Discretionary application process creates uncertainty during the development stage and more work for applicants. Some developers will be discouraged from applying.
- City must weigh the temporary (up to 10 years) loss of tax revenue against the potential attraction of new investment to targeted areas.
- Reduces general fund revenues for all overlapping taxing districts, which could make it harder to promote the tool to partner jurisdictions that do not perceive the same project benefits.
- Depending on the project criteria, can be a highly competitive process among development projects.
- Must get affirmative support from enough overlapping taxing districts to apply to their tax collections.

## Best for:

Encouraging multifamily housing in strategic locations and with specific features, or supporting development of housing affordable to moderate-income households (e.g. around 80% AMI where the rent discount relative to market rates is limited).

## Potential Application in Cottage Grove

ECONorthwest evaluated the potential impact of the MUPTE program using River Walk Cottages, a 32-unit market-rate cottage home community in Cottage Grove that was completed in 2018, as an example to see how the tax abatement would have applied to that development if it had been eligible and pursued the abatement. We estimated the value of the tax abatement as well as the cost to the property owners of foregone rent for various possible levels of affordability (i.e. a certain percentage of the units renting at rates affordable to a certain income level).

The program is especially valuable if all taxing districts participate, but the City's taxes alone are enough to provide a meaningful incentive if the program is not too onerous for property owners. Our analysis showed that the program could be used to encourage inclusion of units with below-market rents. However, because of the administrative burden of monitoring compliance with rent restrictions, ECONorthwest staff and the HAC agreed that the program should not be tied to rent discounts. Instead, the program could be used to support multifamily housing at any rent level, which is likely to face financing and financial feasibility challenges given market conditions in Cottage Grove.

The MUPTE program could be a good fit for the Harrison site to incent attached housing with multiple units on one lot<sup>9</sup> where at least some minimum percentage (e.g. 50%) of the units are two-bedroom or larger units, to target housing suitable for families.

## Nonprofit Low-Income Rental Housing Exemption

### How it Works

This tax exemption program applies to rental housing for low-income persons<sup>10</sup> that is owned, being purchased, and/or operated by a nonprofit. It also applies to land held for affordable housing development. Land and improvements are exempt for as long as the property meets the criteria, but developers must reapply every year to show that they continue to meet the program criteria.

To enact this program, the City would need to adopt standards and guidelines for applications, and enforcement mechanisms. Rents within the eligible properties must reflect the full value of the property tax abatement.

This program would provide an opportunity to assist nonprofits providing affordable housing in the community by lowering operating costs. Affordable housing provided by a public agency is already exempt, and nonprofits have the option to apply for an exemption through the state; however, the state process is cumbersome and is not always successful.

### Pros and Cons

#### Pros:

- The affordable housing tax abatement can be used for any non-profit affordable housing development.
- No requirement that construction be complete prior to application.
- Works well in tandem with other incentives, such as land banking.
- Reduces carrying costs before development occurs (tax exemption available for land being held for development of affordable units), and offsets operational costs once the development is complete.

#### Cons:

- Reduces general fund revenues for all overlapping taxing districts if properties that would not otherwise have received an exemption are approved through the program.

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<sup>9</sup> The City may be able to apply MUPTE to cottage cluster housing on a common lot as well, but should seek the opinion of the City Attorney.

<sup>10</sup> Incomes must be at or below 60% of area median income (AMI) to start, and up to 80% AMI in subsequent years.

- Must get affirmative support from enough overlapping taxing districts to apply to their tax collections.
- Limited applicability / eligibility, since it does not apply to mixed-income housing or affordable housing built by for-profit developers.
- The requirement for the property owner to resubmit eligibility documentation every year may be burdensome.

### Best for:

Reducing operating costs for regulated affordable housing developed by nonprofits and affordable at 60% AMI or below.

### Potential Application in Cottage Grove

The City should consider implementing the nonprofit tax exemption program to reduce development barriers and lower operating costs for regulated affordable housing.

## Temporary Exemption for Newly Rehabilitated or Constructed Multiunit Rental Housing

### How It Works

Provides a maximum 10-year tax abatement for newly rehabilitated or constructed multiunit rental housing that is affordable to households with an annual income at or below 120% of AMI. The tax abatement applies to the full property tax amount—land and improvements.

A city must establish a schedule that provides longer exemptions for projects with more qualifying units, with a maximum of 10 years. To establish this tax abatement, a city adopts an ordinance or resolution, the city must establish definitions of affordability and duration of exemption, and overlapping taxing districts must agree. Specifically, the city must:

- (1) Create an ordinance to adopt a schedule establishing the length and percentage of the exemption based on the number of affordable units.
- (2) Define the terms “area median income” and “affordable” for families of varying sizes.
- (3) Seek agreement from taxing districts representing 51 percent or more of the combined levying authority on the property. If the city is unable to get agreement from other taxing districts, the abatement cannot take effect.

### Pros

- Properties must re-apply every year, which provides a built-in enforcement mechanism. This is not overly burdensome since they only need to show that they continue to meet the criteria, which are non-discretionary.
- All properties that meet eligibility criteria must be granted the exemption, reducing uncertainty for developers.

## Cons

- Little ability to tailor the program to offer greater benefits to projects that are more desirable, and all eligible projects get the exemption.
- With market rents even for new multiunit rental housing generally already affordable at or below 120% of AML, this would offer as much of an incentive for market-rate development as for affordable housing development.

## Best for:

Incenting market-rate / moderate-income multifamily housing development city-wide.

## Potential Application in Cottage Grove

The City may run into more concerns among local tax jurisdictions with this program due to the temporary loss of tax revenue (because land value is exempted in addition to improvement value). The City may want to pursue this program if it would like to see a citywide program to encourage multifamily housing across the income spectrum.

## Next Steps and Considerations for Successful Implementation

### MUPTE

The City would need to take the following steps to implement MUPTE:

- Outreach to overlapping taxing districts to build support for extending the tax abatement to their tax rolls—51% of the combined tax rate must agree by board resolution in order for the exemption to apply to all taxing districts. This 51% could be met by the City in combination with the School District or the City along with Lane County and South Lane County Fire and Rescue.
- The City must establish standards and guidelines with requirements for eligibility.
- Hold a public hearing to determine whether qualifying housing would or would not be built without the benefit of the program.
- Adopt the program via ordinance or resolution.

Because offering property tax abatements within an urban renewal area delays TIF revenue, the City should make urban renewal boundary decisions first but with the potential MUPTE program in mind. They can be applied to the same properties (e.g. the Harrison site), but this would need to be factored into TIF projections. Once the City's plans related to urban renewal are clearer, the City can advance discussions on the MUPTE program. While the City could advance both conversations simultaneously, prioritizing the urban renewal decision also allows the City and School District to see how things evolve with the Harrison site and whether additional incentive/public support seem to be needed to achieve the City's housing goals.



## Other Tax Abatement Programs

The City should also consider implementing the nonprofit tax exemption program to reduce development barriers and lower operating costs for regulated affordable housing. This program requires many of the same implementation steps as the MUPTE program, and could be done simultaneously for sake of efficiency. However, since it may be less controversial and is less connected to the urban renewal decision, the City could advance implementation prior to a decision on the MUPTE program.

# Conclusions and Phasing

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Implementation of the City's Housing Strategy is dependent on a number of separate decision points. The analysis in this report offers a roadmap to move these inter-related discussions forward.

In sum, the City's implementation plan is as follows:

## NEAR-TERM (2019-2020):

- Support the School District's request to rezone the Harrison site for greater housing density.
- Initiate development code amendments for the R-2 and R-3 zones to make those zones more efficient and suitable for a range of housing types.
- Support the School District in successful disposition of the Harrison site for housing development.
- Advance urban renewal planning, with an eye to using urban renewal to support at least some housing goals (e.g., renovating downtown buildings to add upper-story housing).
- Work with overlapping taxing districts to adopt the Nonprofit Corporation Low-Income Housing property tax exemption.

## LONGER-TERM (2020 AND BEYOND):

- As urban renewal plans take shape, consider whether, how, and where to apply the MUPTE program to support multifamily and attached housing, including potentially applying it on the Harrison site if these housing types (including duplexes or other small-scale multiple unit housing) need incentives to be feasible.

**Middle Housing Model Code Technical Advisory Committee (MCTAC) Meeting #1**  
**January 9, 2020; 1pm-3pm**  
**Oregon Department of Energy (ODOE)**  
**Meitner Conference Room**  
**550 Capitol St NE**  
**Salem, OR**

**Arrive and Settle In**

- Jerry Lidz: Our job is not to make the law, but to figure out how to make this work

**Welcome, Opening Remarks, and Review Agenda**

- This is first of 10 TAC meetings
- Extension of RAC, which meets on a 5-week basis
- Goal is to advise on Model code for middle housing. Very tight timeline due to tight statutory deadlines

**TAC Member Introductions**

**TAC Roles and Topics**

- Background
  - HB 2001/2003
  - Today and during the first few MCTAC meetings the focus will be on medium-sized cities, 10,000-25,000 in population, duplexes will be allowed on all lots that allow single-family detached dwellings.
  - Large cities, 25k and above, outside/inside of metro UGB, quads, triplexes, and townhomes allowed on all lots for each
- Role:
  - The TAC is an extension of RAC
  - Discussion and comments shared here will be brought to RAC for discussion
  - These are public meetings
- Major deliverables
  - Medium city middle housing model code
  - Large city middle housing model code
  - Set of standards (“sideboards”)
    - “Sideboards” now known as “regulatory minimum standards to ensure compliance with HB2001”
  - Question: Susan K: How many medium cities have said they need a model code?
    - Ethan: a handful
  - Question: Mark R: have any cities already started to move forward?
    - Kevin Y: some research was already done prior to HB2001; many cities already have provisions that comply with some of the requirements

- Question: Jerry L: what are “sideboards”?
  - What DLCD will use to check whether cities check all boxes to meet minimum/baseline standards
  - Brian M: this will establish how much the state is intervening in local governments
    - Shouldn’t really be best practices, since cities will have to apply directly
    - Maybe there could be another document with list of best practices
  - Jeremy R: it should be best practices; it’s a last resort for cities not in compliance
  - Matt H: could include optional best practices companion document
  - Kaarin K: companion document is absolutely necessary; explain in normal language why certain provisions are important, what goals it’s trying to meet
  - Ellen M: follow DLCD’s ADU companion guide as an example
  - Sarah A-S: if agency has minimum standards in its rule, the court will give deference to that, rather than to the “best practices” model code.
- Timeline
  - Rulemaking proposed to be done by Dec. 31: 2020
    - Medium city: draft done by May LCDC meeting, final adoption at July LCDC meeting
    - Large cities: draft done by September LCDC meeting, final adoption at November LCDC meeting
  - Rulemaking website houses all information for RAC and TAC meetings.
- TAC Schedule
  - Schedule should’ve been received in packet
  - Should’ve received 3/10 calendar invites, working on finalizing rooms and locations after this meeting
  - Summaries from past meetings will be in future packets
  - Most meetings will be in DLCD’s Basement Hearing Room
- Discussion worksheet
  - Using this sheet as an additional space to provide feedback, we know time is short in meetings for discussion
  - SurveyMonkey will be sent to TAC members with fillable discussion worksheet questions to collect comments or feedback missed during the meeting today
- Meeting Ground Rules
  - Speaking one at a time
  - Listen and be respectful
  - Question: is zoom archived? Yes, it is. Meeting packets, RAC/TAC meetings, summaries are archived

## **Model Code Structure**

- Angelo planning has provided two memos for this discussion today
- Goal of this meeting is to get through entirety of model code structure memo, and if time, go through the medium cities model code concepts memo
- Matt Hastie from Angelo Planning presents/leads discussion
  - Matt: Not trying to reach consensus today, just want to hear everyone's thoughts on the discussion questions in the memo
- Question: how many cities are operating, that have expressed interest in needing a model code?
  - Kevin Y: a handful of cities. They are not required to adopt if they already have a code of their own. Cities can choose
  - There are about 20 "Medium cities"
  - many cities have provisions that allow for middle housing in residential zones already
- For some elements, the model code has to be a best practice. For other elements, it has to be a minimum standard
- DLCDC has an ADU guidance document. State rationale, guidance, intent are listed clearly in this document and can serve as a guide.

**Question 1:** Does anyone think it will be a bad idea to have a purpose statement in model code?

- Jerry L: Good idea, but be careful about use of the term "affordability"
- HB2001 should be incorporated; standards need to be clear and objective; shouldn't need to rely on purpose statement to interpret any standards

**Question 2:** What is the definition of a duplex right now? Are duplexes always two attached units? How do duplexes relate to ADUs? How can this be applied across the state?

- Jerry L: Why does it matter?
- Susan K: shouldn't care if detached; local jurisdictions should retain authority to decide what they look like
- Kaarin K: should be consistent with real estate law, property law; typically duplex shares a common wall or roof; agree that for objectives the definition shouldn't matter; if they're detached, are they moving more into cottage cluster configuration?
- Mark R: definition shouldn't specify that they're attached; Bend defines as either attached or detached; Springfield moving forward with adopting provisions ahead of deadline; we think it should be as flexible as possible; re: ADUs – where's the cutoff in terms of square footage (matters for parking requirement in HB2001); internal conversions wouldn't meet traditional definition of duplex as two equally sized units
- Ryan J: clarify distinction with ADUs; from a legal standpoint, how will it be appraised; haven't seen many examples of detached units as duplex
- Hope B: everything should have as thought out and spelled out definition as possible (not just ADUs, typically 800 sf max), location of second unit; ADUs are limited in size
- Peter K: Wish housing types hadn't been spelled out in the bill; we'll want to define them here for flexibility

- Brian M: if you allow all three duplex configurations (vertical, horizontal, detached), you're requiring cities to accept all three; would you have to allow ADUs for each because of ADU law?
- Martha F: intent of bill was to allow what cities typically think of as a duplex (one building); as a practical matter, if duplexes can be detached, what's the point of ADUs anymore?
- Kol P: not all cities allow detached ADUs necessarily; size constraint of ADU leads to policy benefits that the State might want; there should be special regulatory incentives to building ADUs over detached duplex (e.g., SDCs, parking requirements); how about model = two detached units, min standard = attached units)
- Ted R: ADUs required for every Single Family Detached unit, need to define Single Family Detached
- Local jurisdiction can decide what they want to do with it
- Duplex vs. ADU
  - Hope that it's not just about duplex, but that everything is spelled out for maximum housing flexibility
  - Duplex = 2 units on a lot
- All for allowing flexibility, but intent was to traditionally define duplexes
  - Don't cities that already allow duplex already allow ADUs?
- Not all cities allow detached ADUs
- There should be special regulatory incentives to develop duplexes
- There may be a set of regulations that differentiate ADUs from duplexes
- Would this be an example of model code? This would be a great differentiation between model and minimum standard
- We may need to define single-family home
- Hugh P: Single-family needs to be defined. Eugene has been moving away from that
- Mark R: "single-unit dwelling"; lot zoned for residential use

**Question 3:** Where is this applicable? What issues need to be addressed in applicability statement?

- Mark R: Deal with new construction vs. old conversions. There may be different types
- Kaarin K: City of Tigard is a good example to look at
- Addressing CC&Rs
- Applicable to any zone allowing single-family housing
- Hope B: outline and addressing historic areas and areas with CC&Rs

**Question 4:** What are your initial thoughts about how the model code should address existing standards for single-family development?

- Peter: if requirements apply to residential zones, should apply to Multi-Use zones, others too; if you can develop a Single Family Dwelling in a commercial zone, duplexes should be allowed too
- Martha F: our Multi-Family zones and Multi-Use zones don't allow a Single Family Dwelling; depends on what's considered a "primary use"
- There will be conflict with stormwater mitigation
- Do we care about home occupation?
- We need to be careful about "resolving conflict" for the model code. We need to be careful, if there is conflict, allowing model code to prevail

- It sounds discriminatory to say that home occupations would not be allowed
- We need to allow home occupations. If it's a dwelling, it's a dwelling
- We may not need to address home occupations in model code. Having home occupations allows opportunities for someone to own a home
- HB2001 has a carve out for goal-protected areas (Goal 5). Model code could have a specific reference to goal-protected areas, in addition to middle housing applicability
- Kimberli F: concerned about existing historic design review standards. Requirement for clear and objective standards excludes historic resources
- Hugh P: do we care about home occupations in this context? I think no
- Jerry L: home occupations are not a Land Use issue; be careful about "conflicts" – something people can spend a lot of time litigating
- Kaarin K: statement saying Model Code prevails in case of conflicts makes sense; home occupations – wouldn't make sense to not allow for duplex—discriminatory
- Martha F: only instance conflict statement would be necessary is when cities are forced to apply directly; if using as guidance, cities will check for internal conflicts
- Mark R: look at Bend for example of driveway provisions
- Pauline H: added driveway standards to add flexibility
- Ted R: sideboards should say something about allowing home occupations in duplex if allowed in SFD
- General consensus:
  - Don't need to address home occupations in model code
  - Don't discriminate if you're allowing something for Single Family Dwelling
  - Kaarin K: keep an eye on any standard that applies to duplex but not to Single Family Dwellings; looking to promote a compatible and integrated neighborhood condition
  - Kevin Y: HB2001 does have provision related to goal-protected areas; Model Code could have reference in applicability to goal-protected areas; Clear and objective requirement excludes historic standards
  - Brian M: goal-protected areas—Model Code may have to describe how each housing type impacts (maybe less of an issue for duplex)
  - Mark R: solar setbacks—should be equally applicable to duplex and Single Family Dwellings

**Question 5:** If single family is permitted outright, duplex is permitted outright, correct? Should duplexes be processed in the same manner as single-family detached dwellings?

- If duplexes are not as easy to permit as single family during site review, it's a miss on our part
- We need to have a principle that it's not much harder to build a duplex than a single family home in code. Let's make it easy!
- Mary-Kyle: it should be a principle: no more onerous to develop a duplex
- Agreement that if Single Family Dwelling allowed outright, duplex should be too
- Mark R: if there's design review for Single Family Dwelling, not consistent with state law to require for either Single Family Dwelling or duplex; New duplexes should have a clear and objective track

- Kaarin K: wouldn't support site review for duplex

**Question 6:** What types of specific development and design standards should duplexes have that single family homes don't?

- Entrances, etc.
- Our starting thought (size, setback, etc)
- Martha F: We need to start thinking about model code vs. minimum regulatory standard; maybe model code isn't specific about something like articulation; don't want to prohibit jurisdiction from applying own architectural standards
- Ryan J: Whatever is allowed in single family should be allowed in duplexes, triplexes, everything; new standards not applied to Single Family Dwelling will add cost for builders
- Peter K: shouldn't be set of design standards; make sure we're not precluding incentive zoning for duplexes (e.g.s, allowing larger buildings); are we going to say that you can't apply unnecessary architectural standards?
- This committee could help put a container on "unreasonable cost and delay"
- Mary-Kyle: if existing Single Family Dwelling standards are not clear and objective, city will have to change existing standards, can't apply them to duplex; if mimicking Single Family Dwelling standards would cause unreasonable cost and delay, can those be prohibited; don't like doors facing separate streets, e.g, if city has those standards for duplexes, that's unreasonable cost and delay
- Hope B: what is unreasonable cost and delay? Need to define.
- Sarah A-S: regulate Floor Area Ratio, minimum lot size, and parking; scenarios done in Eugene for middle housing in Single Family districts
- Brian M: standards for Single Family Dwellings could frustrate; Model Code may have to lay out minimum development box that has to be there; e.g., if you squeeze a development too much on size based on Single Family Dwelling standards, it may not be feasible to build a duplex; maybe Model Code should override some standards—e.g., minimum volume (would need to fit with every city's code)
- Kol P: rear yard setback and open space requirements could make it infeasible to build a duplex; other development implications to duplex—similar to issues that come up for ADUs (e.g., street frontage improvements may be required for Single Family Dwellings, dedicated water meters, shared sewer laterals, SDCs)
- Kaarin K : want to clarify for the public that when we say "we don't care", we actually care a lot we just don't specific items as needing to be explicitly address in a Model Code
- Mark R: affordability isn't addressed in the legislation, don't need to address directly; parking: there should be a discount, shouldn't just require double parking; if we're not addressing aesthetics for duplex conversions, shouldn't address them for new construction either; could best practices be more lenient than Single Family Dwelling in some ways?; density: duplex should just be exempt; water meters, SDCs: Springfield has a separate water utility, so can't control that
- We can't make development of a duplex more difficult than a development of a single family home
- Is model code going to have to lay out minimum development box?
- There's nothing in legislation that really speaks about affordability



- Summary:
  - Shouldn't require things for duplexes that aren't required for Single Family Dwellings
  - Maybe we should let duplexes do some things not allowed for Single Family Dwellings
- Parking initial idea: 1 additional space for second unit
  - Kol P: Model Code should have no off-street parking requirement
  - Martha F: not every jurisdiction is Portland; don't want to treat duplexes the same, just don't want to make it any more difficult; can't expect costs to be the same, value of each unit ideally less than one large Single Family Dwelling; SDCs: duplexes cost more
  - Jerry L: need to be careful when we're thinking about duplex as a building vs. each unit; parking, etc. may depend on whether it's attached or detached; some answers may depend on the size of the second unit
  - Mark R: for on-street credit, should require a city-standard street
  - Ryan J: keep emergency services in mind when thinking about on-street parking
  - Parking. Most single family homes require 2 spaces
  - Mary-Kyle: affordability—HB2001 does say cities need to consider ways to increase affordability of middle housing types; parking—can't simply double city's Single Family Dwelling requirement
  - Kaarin K: consider max parking standard; consider environmental impact of vehicle storage
  - Matt H: to clarify, we likely won't recommend doubling Single Family Dwelling parking requirement

### **Medium Cities Model Code Topics**

- Angelo planning has provided a memo for this, too, in packet

### **Next Steps and Wrap Up**

- Next meeting = February 4, 9am-noon
- 3 hour discussion
- Comments that were mentioned today will be summarized into a memo to inform RAC 3

**223.304 Determination of amount of system development charges; methodology; credit allowed against charge; limitation of action contesting methodology for imposing charge; notification request.**

(1)(a) Reimbursement fees must be established or modified by ordinance or resolution setting forth a methodology that is, when applicable, based on:

- (A) Ratemaking principles employed to finance publicly owned capital improvements;
- (B) Prior contributions by existing users;
- (C) Gifts or grants from federal or state government or private persons;
- (D) The value of unused capacity available to future system users or the cost of the existing facilities; and
- (E) Other relevant factors identified by the local government imposing the fee.

(b) The methodology for establishing or modifying a reimbursement fee must:

- (A) Promote the objective of future system users contributing no more than an equitable share to the cost of existing facilities.
- (B) Be available for public inspection.

(2) Improvement fees must:

(a) Be established or modified by ordinance or resolution setting forth a methodology that is available for public inspection and demonstrates consideration of:

- (A) The projected cost of the capital improvements identified in the plan and list adopted pursuant to ORS 223.309 that are needed to increase the capacity of the systems to which the fee is related; and
- (B) The need for increased capacity in the system to which the fee is related that will be required to serve the demands placed on the system by future users.

(b) Be calculated to obtain the cost of capital improvements for the projected need for available system capacity for future users.

(3) A local government may establish and impose a system development charge that is a combination of a reimbursement fee and an improvement fee, if the methodology demonstrates that the charge is not based on providing the same system capacity.

(4) The ordinance or resolution that establishes or modifies an improvement fee shall also provide for a credit against such fee for the construction of a qualified public improvement. A “qualified public improvement” means a capital improvement that is required as a condition of development approval, identified in the plan and list adopted pursuant to ORS 223.309 and either:

- (a) Not located on or contiguous to property that is the subject of development approval; or
- (b) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

(5)(a) The credit provided for in subsection (4) of this section is only for the improvement fee charged for the type of improvement being constructed, and credit for qualified public improvements under subsection (4)(b) of this section may be granted only for the cost of that portion of such improvement that exceeds the local government’s minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under subsection (4)(b) of this section.

(b) A local government may deny the credit provided for in subsection (4) of this section if the local government demonstrates:

- (A) That the application does not meet the requirements of subsection (4) of this section; or
  - (B) By reference to the list adopted pursuant to ORS 223.309, that the improvement for which credit is sought was not included in the plan and list adopted pursuant to ORS 223.309.
- (c) When the construction of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project. This subsection does not prohibit a local government from providing a greater credit, or from establishing a system providing for the transferability of credits, or from providing a credit for a capital improvement not identified in the plan and list adopted pursuant to ORS 223.309, or from providing a share of the cost of such improvement by other means, if a local government so chooses.
- (d) Credits must be used in the time specified in the ordinance but not later than 10 years from the date the credit is given.
- (6) Any local government that proposes to establish or modify a system development charge shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of a methodology for any system development charge.
- (7)(a) Written notice must be mailed to persons on the list at least 90 days prior to the first hearing to establish or modify a system development charge, and the methodology supporting the system development charge must be available at least 60 days prior to the first hearing. The failure of a person on the list to receive a notice that was mailed does not invalidate the action of the local government. The local government may periodically delete names from the list, but at least 30 days prior to removing a name from the list shall notify the person whose name is to be deleted that a new written request for notification is required if the person wishes to remain on the notification list.
- (b) Legal action intended to contest the methodology used for calculating a system development charge may not be filed after 60 days following adoption or modification of the system development charge ordinance or resolution by the local government. A person shall request judicial review of the methodology used for calculating a system development charge only as provided in ORS 34.010 to 34.100.
- (8) A change in the amount of a reimbursement fee or an improvement fee is not a modification of the system development charge methodology if the change in amount is based on:
- (a) A change in the cost of materials, labor or real property applied to projects or project capacity as set forth on the list adopted pursuant to ORS 223.309; or
  - (b) The periodic application of one or more specific cost indexes or other periodic data sources. A specific cost index or periodic data source must be:
    - (A) A relevant measurement of the average change in prices or costs over an identified time period for materials, labor, real property or a combination of the three;
    - (B) Published by a recognized organization or agency that produces the index or data source for reasons that are independent of the system development charge methodology; and
    - (C) Incorporated as part of the established methodology or identified and adopted in a separate ordinance, resolution or order.

# Oregon Housing Initiative Rulemaking and Technical Advisory Committee 2020 Meeting Schedule

Housing Rulemaking Advisory Committee (RAC)		
Meeting	Date and Time	Location
RAC1	November 14, 2019 10:00am – 1:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
RAC2	December 16, 2019 11:00am - 2:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
RAC3	January 22, 2020 11:00am - 3:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
RAC4	February 27, 2020 11:00am - 3:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
RAC5	April 2, 2020 11:00am - 3:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
RAC6	May 7, 2020 11:00am - 3:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
RAC7	June 9, 2020 11:00am - 3:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
RAC8	July 14, 2020 11:00am - 3:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
RAC9	August 18, 2020 11:00am - 3:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301

# Oregon Housing Initiative Rulemaking and Technical Advisory Committee 2020 Meeting Schedule

Middle Housing Model Code Technical Advisory Committee (MCTAC)		
MCTAC1	January 9, 2020 1:00pm - 3:00pm	Department of Energy 550 Capitol Street NE Salem, OR 97301
MCTAC2	February 4, 2020 9:00am - 12:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
MCTAC3	March 5, 2020 9:00am - 12:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
MCTAC4	March 30, 2020 9:00am - 12:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
MCTAC5	April 21, 2020 9:00am - 12:00pm	League of Oregon Cities 1201 Court Street NE #200 Salem, OR 97301
MCTAC6	June 1, 2020 9:00am - 12:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
MCTAC7	June 25, 2020 9:00am - 12:00pm	League of Oregon Cities 1201 Court Street NE #200 Salem, OR 97301
MCTAC8	August 4, 2020 9:00am - 12:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
MCTAC9	September 1, 2020 9:00am - 12:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
MCTAC10	October 8, 2020 9:00am - 12:00pm	League of Oregon Cities 1201 Court Street NE #200 Salem, OR 97301

# Oregon Housing Initiative Rulemaking and Technical Advisory Committee 2020 Meeting Schedule

<b>Housing Production Strategies Technical Advisory Committee (HPSTAC)</b>		
<b>HPSTAC1</b>	February 6, 2020 9:00am - 12:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
<b>HPSTAC2</b>	March 11, 2020 1:00pm - 4:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
<b>HPSTAC3</b>	April 8, 2020 1:00pm - 4:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
<b>HPSTAC4</b>	May 18, 2020 9:00am - 12:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
<b>HPSTAC5</b>	June 18, 2020 9:00am - 12:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
<b>HPSTAC6</b>	July 20, 2020 9:00am - 12:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
<b>HPSTAC7</b>	August 6, 2020 9:00am - 12:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
<b>HPSTAC8</b>	September 3, 2020 9:00am - 12:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
<b>HPSTAC9</b>	October 12, 2020 9:00am - 12:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301

# Oregon Housing Initiative Rulemaking and Technical Advisory Committee 2020 Meeting Schedule

Infrastructure Based Time Extension Request Technical Advisory Committee (IBTERTAC)		
IBTERTAC1	January 29, 2020 1:00pm - 4:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
IBTERTAC2	February 18, 2020 9:00am - 12:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
IBTERTAC3	March 16, 2020 9:00am - 12:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
IBTERTAC4	April 14, 2020 9:00am - 12:00pm	League of Oregon Cities 1201 Court Street NE #200 Salem, OR 97301
IBTERTAC5	May 6, 2020 9:00am - 12:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
IBTERTAC6	May 28, 2020 9:00am - 12:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301
IBTERTAC7	June 24, 2020 9:00am - 12:00pm	DLCD Basement Hearing Room 625 Capitol Street NE Salem, OR 97301

# Housing Production Strategy Technical Advisory Committee Membership

Updated January 13, 2020

Co-Chair		Co-Chair
Jerry Lidz LCDC		Anyeley Hallova LCDC
Name	Organization	
Stephanie Jennings	City of Eugene	
Sandy Belson	City of Springfield	
Jes Larson	Metro	
Ellen Miller	Oregon Home Builders Association	
Marisa Zapata	Portland State University	
Tom Armstrong	City of Portland	
Nancy Donovan	League of Women Voters of Oregon	
Andree Tremoulet	Commonworks Consulting	
Anyeley Hallova	project^	
Deb Meihoff	Communitas Planning	
Brian Martin	City of Beaverton	
Angel Falconer	City of Milwaukie	
Jodi Hack	Oregon Home Builders Association	
Peggy Lynch	League Of Women Voters	
Mary Kyle McCurdy	1000 Friends of Oregon	
Alexis Biddle	1000 Friends of Oregon	
Stacey Stemach	Stemach Designs	
Chris Pryor	City of Eugene	
Allan Lazo	Fair Housing Council	
Kim Travis	OHCS	
Dan Pauly	City of Wilsonville	
Damian Syrnyk	City of Bend	
Ariel Nelson	League of Oregon Cities	
Dan Riordan	City of Forest Grove	
Brian Shelton-Kelley	NeighborWorks Umpqua	
Gerardo Sandoval	University of Oregon	
Alison McIntosh	Neighborhood Partnerships	
STAFF		
Name	Phone	Email
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# Infrastructure Based Time Extension Request Technical Advisory Committee Membership

Updated January 13, 2020

Co-Chair		Co-Chair	
Jerry Lidz LCDC		Anyeley Hallova LCDC	
Name		Organization	
Chris Storey		Water and Environmental Services	
Jeff Blaine		City of Albany	
Ellen Miller		Oregon Homebuilders Association	
Laura Kelly		City of Hillsboro	
Eric Engstrom		City of Portland	
Alexis Biddle		1000 Friends of Oregon	
Garet Prior		City of Tualatin	
DeeDee Fraley		City of Bend	
John Williams		City of West Linn	
Andrea Valderrama		Coalition of Communities of Color	
Derrick Tokos		City of Newport	
Ariel Nelson		League of Oregon Cities	
Laura Kelly		City of Hillsboro	
STAFF			
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# Middle Housing Model Code Technical Advisory Committee Membership

Updated January 13, 2020

Co-Chair		Co-Chair
Jerry Lidz LCDC		Anyeley Hallova LCDC
Name		Organization
Hugh Prichard		Prichard Partners, Inc.
Kelsey Zlevor		Cameron McCarthy
Mark Rust		City of Springfield
Ted Reid		Metro
Kaarin Knudsen		Better Housing Eugene
Ryan Jennings		Hayden Homes
Peter Keyes		University of Oregon
Rose Ojeda		Hacienda CDC
Kol Peterson		Accessory Dwelling Strategies
Jeremy Rogers		Oregon Association of Realtors
Hope Beraka		Think Real Estate
Brian Martin		City of Beaverton
Kimberli Fitzgerald		City of Salem
Martha Fritzie		Clackamas County
Ellen Miller		Oregon Homebuilders Association
Sarah Adams-Schoen		University of Oregon
Jerry Lidz		LCDC
Mary Kyle McCurdy		1000 Friends of Oregon
Stacey Stemach		Stemach Designs
Amanda Ferguson		City of Cottage Grove
Pauline Hardie		City of Bend
Alexis Biddle		1000 Friends of Oregon
Andrea Valderrama		Coalition of Communities of Color
Susan King		Hayhurst Neighborhood
Theresa Cherniak		Washington County
Heather Richards		City of McMinnville
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Name	Phone	Email
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Robert Mansolillo	503-934-0053	robert.mansolillo@state.or.us
Casaria Taylor	503-934-0065	casaria.taylor@state.or.us

**Department of Land Conservation and Development**

**HB 2001 and HB 2003**

**Rulemaking Advisory Committee Packet**

**Public Comments**

**12/10/19 through 1/14/20**

**Summary**

Date	Commenter	Commenter Type	Comments Summary	Comment Location
12/10/2019	Darby Ayers-Flood	Listening Session	funding	Comment Card
12/10/2019	Taylor Grouybehl	Listening Session	limited unit permits	Comment Card
12/10/2019	Cailin Notch	Listening Session	concerns that bills will fall short around addressing homeless issue, enforcement, and working collaboratively with other states	Comment Card
12/10/2019	Charles Rearrick	Listening Session	concerns over top-down planning	Comment Card
1/7/2020	Steven W. Baker	Public	reasoning behind different requirements for different size cities	Email
1/14/2020	Derrick Tokos	Public	Issues with SFR Conversion	Email



### Oregon's New Housing Initiatives

Implementing HB 2001 and 2003

### Comment Card

Please use this card to provide comments to the Department of Land Conservation and Development (DLCD). These will be taken under consideration by DLCD staff and shared with the Rulemaking Advisory Committee when considering how to implement House Bills 2001 and 2003. If you do not wish to submit a written comment at this time you may also:

**Mail a comment to:**

DLCD Attn: Ethan Stuckmayer  
635 Capitol St NE Ste 150  
Salem, OR 97301-2540

**Email a comment to:**

housing.dlcd@state.or.us

**Call and comment:**

Ethan Stuckmayer: (503) 934-0619

- Please check this box if you would like to be added to the DLCD list serve **for updates on all housing-related matters**
- Please check this box if you would like to be added to the DLCD list serve on **rulemaking around House Bills 2001 and 2003.**

Date: 12/10/19 Name: DARBY AYERS-FLOOD

Address: 221 E RAPP RD  
TALENT OR 97540

Email: mayor@cityoftalent.org

Comments: funding is key.



**Oregon's New Housing Initiatives**

Implementing HB 2001 and 2003

**Comment Card**

Please use this card to provide comments to the Department of Land Conservation and Development (DLCD). These will be taken under consideration by DLCD staff and shared with the Rulemaking Advisory Committee when considering how to implement House Bills 2001 and 2003. If you do not wish to submit a written comment at this time you may also:

**Mail a comment to:**

DLCD Attn: Ethan Stuckmayer  
635 Capitol St NE Ste 150  
Salem, OR 97301-2540

**Email a comment to:**

housing.dlcd@state.or.us

**Call and comment:**

Ethan Stuckmayer: (503) 934-0619

- Please check this box if you would like to be added to the DLCD list serve **for updates on all housing-related matters**
- Please check this box if you would like to be added to the DLCD list serve on **rulemaking around House Bills 2001 and 2003.**

Date: 12/10 Name: Taylor Graybehl

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Email: taylor.graybehl@gmail.com

**Comments:** \_\_\_\_\_

As some streets have limited number of units permitted. How would this limit be impacted by permitting additional units?



Oregon's New Housing Initiatives

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- Please check this box if you would like to be added to the DLCD list serve on rulemaking around House Bills 2001 and 2003.

Date: 12/10/19 Name: CAILIN NOTCH  
Address: CENTRAL POINT

Email: CAILIN.NOTCH@GMAIL.COM

Comments: • CONCERN THAT BILLS WILL FALL SHORT OF ADDRESSING HOMELESS ISSUE. • CONCERNED THAT ALLOCATION #'S WON'T HAVE TEETH TO BE ENFORCED. • HOW ARE WEST COAST STATES WORKING TOGETHER TO LEARN FROM EACH OTHER AND PREPARE TOGETHER?



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- Checkboxes for adding to DLCD list serve for updates on all housing-related matters and rulemaking around House Bills 2001 and 2003.

Date: 12-10-19 Name: Charles Rearvick

Address: P.O. Box 85
Phoenix, OR 97535

Email:

Comments: I have been a life long resident of Oregon and seen the effect of centralized planning in Portland and all the state of Oregon over many years. Before LCDC and after, centralized planning - top down management of the state and urban areas has been done at a tremendous cost and has done much to give the pocket of the public employee unions. Freedom of local communities to plan their own use of the land they paid for, has been taken away. This communist model has failed to a large degree.
With all your studies - have you explored the

The impact of city fees for construction and their costs as they affect the cost of housing?

These small meetings do not reflect the feeling of the local communities. If they are aware of your central planning and how it will affect their lives, you would have a much different response to your plans. Some bureaucrat in Salem, schooled in theory, should not have the right to over rule a local community. The average worker here does not have an outstanding salary and PERS. We have to pay for all this bureaucracy.

One other category not covered on your top-down preplanning for communities is rooming houses or boarding houses. Allowing single people to rent a room with a shared bath & kitchen privileges, especially near transportation. This would be for month to month renting. This is a big need for housing. Retirees, single workers. Allow this category to discriminate according to age.



**From:** [Stuckmayer, Ethan](#)  
**To:** [Garcia, Samuel](#)  
**Subject:** FW: House Bill 2001  
**Date:** Tuesday, January 14, 2020 2:25:02 PM

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Public comment for the record



**Ethan Stuckmayer**

Senior Planner of Housing Programs | Community Services Division  
Oregon Department of Land Conservation and Development  
635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540  
Direct: 503-934-0619 | Cell: 503-302-0937 | Main: 503-373-0050  
[ethan.stuckmayer@state.or.us](mailto:ethan.stuckmayer@state.or.us) | [www.oregon.gov/LCD](http://www.oregon.gov/LCD)

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**From:** Steven Baker [mailto:[Sbaker@ci.yreka.ca.us](mailto:Sbaker@ci.yreka.ca.us)]  
**Sent:** Tuesday, January 7, 2020 9:06 AM  
**To:** Housing DLCD <[housingdlcd@dlcd.state.or.us](mailto:housingdlcd@dlcd.state.or.us)>  
**Subject:** House Bill 2001

Good Morning:

I read recently about House Bill 2001 which requires allowing duplexes triplexes, fourplexes and cottage clusters on single family lots in cities with populations over 25,000.

I was curious as to the thinking for the requirements for cities of different sizes having different requirements. We are a relatively small city (about 7700 population) just over the border and we like the idea of recognizing the differences between small cities and much larger cities (particularly because of resources) which is why we are interested.

Anything you could tell us about this would be helpful.

Thanks

Steve

Steven W. Baker  
City Manager  
City of Yreka  
530-841-2321  
[sbaker@ci.yreka.ca.us](mailto:sbaker@ci.yreka.ca.us)

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**From:** Derrick Tokos [mailto:D.Tokos@NewportOregon.gov]  
**Sent:** Tuesday, January 14, 2020 1:51 PM  
**To:** Young, Kevin <[kyoung@dlcd.state.or.us](mailto:kyoung@dlcd.state.or.us)>; Stuckmayer, Ethan <[estuckmayer@dlcd.state.or.us](mailto:estuckmayer@dlcd.state.or.us)>  
**Subject:** FW: Revised : Issues with SFR Conversions

Kevin and Ethan,

I asked our Building Official to respond to a few of the 12 questions your agency and Angelo Planning Group put together for the Rules Advisory Committee related to development of a Medium City Model Code. It is from the perspective of applying the Oregon Residential Structural Specialty Code (ORSC) to one and two family dwellings, or the Oregon Structural Specialty Code (OSSC) to multi-family projects. Attached are his responses.

As you know, terms used in a land use context aren't necessarily the same when it comes to applying building codes. This can be confusing to the public and have significant cost implications, particularly for small projects. For example, the concept of an Accessory Dwelling Unit (ADU) does not exist in the building codes. When an ADU is built within an existing single-family dwelling on a lot, it is viewed as a two-family structure or "duplex" under the ORSC. Significant costs include construction of one hour fire walls, separately accessible circuit breaker panels, and potentially sewer upgrades. If you add an ADU into a dwelling that is part of a duplex on a lot, the project is shifted over to the OSSC since there would be "more than two units in the structure." This means that, in addition to the above costs, an owner must install fire sprinklers in the units. Construction of a new duplex on a lot, each with its own attached ADU is a four-plex subject to the OSSC. In addition to the installation of fire sprinklers, the ground floor units must be accessible. Now if the same duplex is built, each with attached ADUs, such that the primary dwellings straddle a common lot line, then each is viewed as a two-family structure and regulated under the ORSC. Two, one-hour fire walls are required along the common lot line; however, fire sprinklering and accessibility requirements would not apply.

Hopefully, the model code that you are developing will extend beyond land use, and speak to common life safety and constructability issues that are likely to be raised when building codes are applied. Syncing up terminology, to the extent possible, would also be helpful.

Also, on a related note, we have had an opportunity to review the rules the Oregon Building Codes Division recently adopted establishing a uniform “Alternate Approval Process for Single-Family Dwelling Conversions” (attached). They provide a Building Official discretion to set aside or alter fire life safety or other building codes standards when converting a single-family residence into as many as four dwelling units, provided such action does not create an imminent threat to public health and safety. This type of “flexibility” also presents liability concerns, which can be a deal breaker for smaller communities such as Newport. It is unclear what might constitute an “imminent threat” and I expect that we will proceed very cautiously with these provisions. It would have been helpful had the rules provided prescribed trade-offs (e.g. use of more robust fire resistant construction materials in lieu of installation of fire sprinklers) that a local government could rely upon as acceptable. Instead, the only avenue available under the new rules places the responsibility and liability of identifying acceptable alternatives on the shoulders of local governments that implement building inspection programs.

I hope this feedback is helpful, and please don't hesitate to contact me if you have questions.

*Derrick I. Tokos, AICP*

Community Development Director

City of Newport

169 SW Coast Highway

Newport, OR 97365

ph: 541.574.0626 fax: 541.574.0644

[d.tokos@newportoregon.gov](mailto:d.tokos@newportoregon.gov)

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