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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 660
LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

FILED

09/26/2024 7:02 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amendments to OAR chapter 660, division 8 to incorporate the Oregon Housing Needs Analysis Program

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/14/2024 11:55 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 10/25/2024

TIME: 8:00 AM

OFFICER: LCDC

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-235-215-8782

CONFERENCE ID: 84745211603

SPECIAL INSTRUCTIONS:

Passcode: 880550

Sign up to testify: <https://www.oregon.gov/lcd/Commission/Pages/Public-Comment.aspx>

NEED FOR THE RULE(S)

House Bill 2001 and House Bill 2889 (2023) instruct the Land Conservation and Development Commission (LCDC) to adopt and amend rules surrounding Oregon's land use planning goals on housing (Goal 10) and urbanization (Goal 14). The goal of this rulemaking process is to implement the Oregon Housing Needs Analysis (OHNA) program and integrate it into existing land use planning systems. The OHNA represents the most significant revision to the state's housing planning system since its inception 50 years ago. It redirects the implementation of Goal 10 towards a more comprehensive framework emphasizing the role of local actions in promoting housing production, affordability, and choice.

The new rules must be adopted by January 1, 2026, and focus on three main subject areas: Housing Accountability, Housing Needs and Production, and Housing Capacity and Urbanization. The rulemaking process includes a rulemaking advisory committee and a technical advisory committee for each subject areas.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

House Bill 2001 (2023)

<https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB2001/Enrolled>,

House Bill 2889 (2023)

<https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB2889/Enrolled>

Oregon Administrative Rules chapter 660, division 8

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3058>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

Background and Foundations for Racial Equity Policy

To help address the housing crisis playing out across Oregon, the Legislature and Governor Tina Kotek directed the Land Conservation and Development Commission (LCDC) to develop administrative rules for housing planning in the state to provide all Oregonians access to safe, affordable housing in their communities of choice that meets their needs.

House Bill (HB) 2001 (2023) directs LCDC to adopt and amend administrative rules relating to housing (Goal 10) and urbanization (Goal 14). The Department of Land Conservation and Development (DLCD or the Department) is developing draft rules with an appointed Rulemaking Advisory Committee (RAC) and three Technical Advisory Committees (TACs) to delve into three main subject areas: Housing Accountability, Housing Needs and Production, and Housing Capacity and Urbanization. As part of this rulemaking, the Department must prepare a Racial Equity Impact Statement. This statement describes the Racial Equity Impacts of the draft administrative rules attached.

ORS 183.335(2)(a)(F) requires a rulemaking notice to include "A statement identifying how adoption of the rule will affect racial equity in the state [.]" This provision applies to any rulemaking notice filed on or after January 1, 2023.

In 2023, LCDC adopted a Racial Equity Framework for Decision Making (Racial Equity Framework). The Racial Equity Framework provides additional guidance and serves as a comprehensive tool to guide all staff and advisory groups in internal projects and processes. The Department provided the RAC with a report addressing the Racial Equity Framework that provides a comprehensive approach to how this rulemaking addresses the elements in the framework and provides a foundation for this Racial Equity Impact Statement.

Oregon's Statewide Planning Goal 10 has clear guidelines for meeting the housing needs of the people in the state. Addressing housing needs goes beyond estimating the number of needed units or making them affordable. People have unique housing needs based on their specific circumstances. In addition, Oregon's historically marginalized and underserved populations often face challenges in accessing safe, accessible, and affordable housing in the community of their choice due to unfair historic policies and practices. The Housing Division focuses on creating equitable housing outcomes by facilitating housing production, affordability, and choice. This aligns with the Goal 10, principles of fair housing, and the urgent housing needs of Oregonians today.

For the purposes of this Racial Equity Impact Statement, the following definition is provided by the State of Oregon Diversity, Equity and Inclusion Action Plan.

"Racial Equity: Closing the gaps so that race can no longer predict any person's success, which simultaneously improves outcomes for all. To achieve racial equity, we must transform our institutions and structures to create systems that

provide the infrastructure for communities to thrive. This commitment requires a paradigm shift on our path to recovery through the intentional integration of racial equity in every decision.” State of Oregon Diversity, Equity and Inclusion Action Plan at 9 (August 2021).

This Racial Equity Impact Statement provides an analysis of the work to date on the OHNA rulemaking by the Department and provides the following:

1. Summary of Rule Intent
2. Engagement and Impact on Racial Equity and Racial Groups Subject to this Rule
3. Racial Equity Data Considerations
4. Unintended Impact and Consequences on Racial Equity in the state

Summary of Rule Intent

The goal of this rulemaking process is to implement the OHNA program and integrate it into existing land use planning systems. The Oregon Legislature directed LCDC to use the following principles for rulemaking and implementation as outlined in section 8 of HB 2001:

- Housing that is safe, accessible and affordable in the community of their choice should be available to every Oregonian.
- Building enough equitable housing must be a top priority.
- The development and implementation of the Housing Production Strategy (HPS) should be the focal point by which the Department collaborate with local governments to address barriers to housing production.
- Tools and resources to address housing production should be provided to local governments, but not to the exclusion of enforcement authority.
- Housing production should support fair and equitable housing outcomes, environmental justice, climate resilience and access to opportunity.
- Housing production should not be undermined by litigation, uncertainty or repetitive or unnecessary procedures.
- Local governments, to the greatest extent possible, should take actions within their control to facilitate the production of housing to meet housing production targets.

Engagement and Impact on Racial Groups to this Rule

To meet the requirements of ORS 183.333(1) provides, in part:

“The membership of an advisory committee appointed under this subsection must represent the interests of persons and communities likely to be affected by the rule.”

The Department's engagement program includes a multi-pronged strategy with an explicit intention centered on protected classes, especially Communities of Color, throughout the entire rulemaking process. To achieve this, the Department has employed the following methods:

- An intentional and systematic approach to developing the RAC and TAC rosters with the population of Oregon as a baseline to ensure an overrepresentation of diverse perspectives.
- Conducting focus groups with community-based and culturally responsive organizations.
- Utilizing the Department's Racial Equity Framework.
- Partnering with consultant Anita Yap of MultiCultural Collaborative as this rulemaking's equity advisor.

The Department convened a racially diverse membership to the OHNA Rulemaking Advisory Committee. Racial groups represented by Committee members include:

- Youth of Color representative
- Culturally specific advocates representing Latinx/o/e communities, Immigrant and Refugee communities
- Culturally specific affordable housing developers

In addition, the following intersectional equity representation includes:

- LBGTQIA+ advocate
- Disability advocate
- Houseless advocates
- Renters and tenant advocates

The Department focused on encouraging participation and engagement with racially diverse representatives by developing relationships and trust and providing additional support opportunities for members to participate that met their needs both culturally and personally to participate. The Department offered stipends to RAC members for whom participation would pose a financial hardship. The Department also offered drop-in times for meeting preparation, technical clarifications, and "RAC Buddies" (matching staff members with RAC members to provide additional support and opportunities for participation).

In May 2024, the Department held two focus groups with community organizations and two focus groups with housing development and service providers. The Department offered webinars for use by invited participants in the focus groups to review in advance as desired to prepare and orient to the technical content. Participants included representatives from the following organizations that represent and serve racially diverse communities that will be impacted by this rule.

- NW Pilot Project
- Summit Bank
- Network for Oregon Affordable Housing
- Urban League of Portland
- Adelante Mujeres
- OPAL Environmental Justice
- Centro Cultural
- Latinos Unidos Siempre
- Asian Pacific American Network of Oregon (APANO)
- Immigrant and Refugee Community Organization (IRCO) Slavic and Eastern European Center
- IRCO Eastern Oregon
- Farmworker Housing Development Corporation
- Homes for Good
- Community Alliance of Tenants
- Portland Community Reinvestment Initiative

Feedback received so far has been used to inform the draft rules. Ongoing and continuing engagement to share and gather feedback on the draft rules began mid-July 2024:

- Regional conversations with local practitioners around the state;
- Community conversations with members of underserved communities;
- Close-the-loop sessions with past focus group participants to explain how their input was used;
- Additional meetings with the RAC, TACs, and LCDC;
- One-on-one conversations with parties and community-based organizations; and
- Other Speakers Bureaus, by request.

Impact on Racially Diverse Communities and Racial Equity

The proposed rules will impact both racially diverse communities and racial equity in the state of Oregon. The rules direct local governments to meet community needs for housing choice and options, engaging with historically underrepresented and impacted communities and Affirmatively Furthering Fair Housing (AFFH), as defined in ORS 197A.100(9).

The OHNA rules will advance racial equity in the state of Oregon by providing administrative rules and guidance to local governments to develop implementation measures to meet the requirements of AFFH and engagement focused on racial equity. Local governments will have accountability measures that require analysis and reporting on equity measures.

The draft rules emphasize the need to focus on protected classes, including Communities of Color, in all steps of HPS development. This is particularly highlighted through various areas of draft rule related to the development of a HPS including the contextualized housing need, engagement, and action.

- **Contextualized Housing Need:** A new proposed component of the Contextualized Housing Need includes a fair housing issue area analysis which seeks to identify and assess barriers to fair housing choice or disparate outcomes for federal, state and locally protected classes within seven specific fair housing issue areas. Based on findings, the analysis supports cities in selecting actions that eliminate, mitigate, or remedy identified barriers and disparate outcomes. The analysis provides a framework for aligning action that affirmatively furthers fair housing, which requires proactive steps to address segregation and promote fair housing choice and inclusive communities.
- **Engagement:** Proposed rules emphasize equitable engagement as part of the development of an HPS with a focus on communities of color and other historically marginalized community groups. Engagement is emphasized in the contextualized housing need to help fill the gaps that quantitative data will not fully capture to assess a city's housing need and required in the development of actions for the Housing Production Strategy.
- **Action Selection:** clarifies a city's responsibility to analyze how their selected actions as part of their HPS will impact protected classes, especially low-income communities, Communities of Color, and people with disabilities. For any identified burdens, cities must consider how these burdens can be mitigated. By placing this responsibility on the city, the rule underscores the need for careful consideration of actions selected with regard to protected classes. It also recognizes that community needs are highly localized and that cities are best positioned to respond to these needs.

For OHNA implementation to be most successful, DLCD should work with local governments to allow for opportunities to raise awareness of historic misinformation, miscommunication, and lack of trust in government amongst diverse communities. DLCD should work with local governments to ensure culturally sensitive and informed communication is used to effectively communicate across affected communities.

The proposed rules outline a new acceleration program that includes audits and accountability measures to ensure both that the rule requirements are met and that desired housing production outcomes are being achieved. In addition, the Department and Oregon Housing and Community Services (OHCS) will provide technical assistance through grants, guidance and educational opportunities to support local governments for implementation.

Racial Equity Data Considerations

HB 2001 requires OHCS to develop a Housing Production Dashboard (proposed OAR 660-008-0005(16)) and Housing Equity Indicators (proposed OAR 660-008-0005(14)) in collaboration with the Department by January 1, 2025. The Housing Equity Indicators (proposed OAR 660-008-0005(14)) include:

1. Available data on housing outcomes for identified demographic groups;
2. Accessibility and visitability;
3. Displacement risk;
4. Housing segregation by race and income;
5. Environmentally just housing outcomes;
6. Residential tenants who are rent-burdened; and
7. other factors.

Equity Indicators

In May and June 2024, OHCS held two focus groups with technical experts and three focus groups with community organizations to evaluate and vet data used to generate the Housing Equity Indicators pursuant to HB 2001. Input from the focus groups will be used by OHCS to inform the collection of data and use of Housing Equity Indicators, and to clarify the use of those indicators in draft rules. Technical experts were asked if an indicator should be used for referral or as information for cities and community organizations discussed how to measure success and how information from the equity indicators could be used by their organizations. A summary of comments received in those conversations is below.

- **Housing Outcomes and Severe Cost Burdening:** Consider age structure and plan for housing across age brackets. Cities need to understand if their community is older or younger proportionally. This also helps understand potential accessibility needs. Using cost burden as an indicator for performance makes sense. Severe cost burden combined with a higher proportion of older adults could be a warning indicator.
- **Land Efficiency and Housing Segregation by Race and Income:** Data for land efficiency is outdated and surveys are not always accurate. There is a need for a statewide assessor database. Qualitative data can be useful for helping characterize a city and determine the cause and implications of segregation. Indicators need to be contextualized and cities need to understand the history and consequences of different choices.
- **Accessibility and Visitability:** Standardized definitions of visitability, accessibility, and adaptability are needed. Proxies for accessibility data could include RMLS or Redfin, but there are concerns about data quality and reliability.
- **Risk of Gentrification and Displacement:** Using the Anti-Displacement Mapping Tool to compare counties and cities that may not be similar may be problematic. Using eviction court records to identify displacement could be helpful.
- **Environmental Justice and Other Measurable Factors:** Consider a gentrification risk measure, tracking building permits for renovation, land improvement value.

Impact of Racial Equity Data

Implementation of OHNA is intended to provide a positive impact on racial equity as it relates to equity indicators provided by the state. OHCS is developing a dashboard designed to reflect each city's progress toward housing targets. This tool is intended to provide local governments with greater access to information to meet the requirements of the rule. The Housing Production Dashboard will increase local government's access to data to conduct assessments, identify marginalized communities, and metrics to track and analyze and report. The state agencies will provide a consistent framework and tools for local governments to advance racial equity in their work providing housing in their communities. Implementation of the rule is intended to provide a positive impact on racially diverse communities by providing culturally informed, accessible, and affordable housing choices.

Using data sources to determine impact on racial equity is challenging because not all data sources collect the same demographic data and racial disaggregation in data collection is not consistent. Some local governments have limited staffing capacity, expertise, and experience with navigating and using data and mapping to conduct required analysis, in particular requirements in AFFH.

Community populations' preferences, displacement circumstances, and experiences with choice barriers can change quickly. It may be difficult to get a good picture of current needs of communities using information that can be dated, incomplete, or noncomprehensive. To respond to the inherent problems with data equity and data reliability the draft rule requires that local governments also engage directly with historically marginalized communities to help inform implementation and analyze and report on their findings, which can address some limitations of using data.

Unintended Consequences

DLCD's July 10th memo to the RAC at 4-5, stated:

"One risk is that the narrower and more prescriptive the policy becomes, the more likely it is to burden the various groups identified in the table. This risk can best be mitigated through partnership, investment, and support for implementation staff. The Department should remain attentive to the possibility that the policy could exacerbate disparities in benefits or burdens if the resultant actions, either deliberately or inadvertently, reinforce the systems that create these disparities in the first place. It is important to recognize that systemic issues may not be ameliorated by this policy – there remains a risk that benefits will primarily accrue to a small subset of individuals. For example, while policies that increase housing production provide community benefits, they can also result in windfalls for land and property owners due to existing disparities in housing policy that reinforce this hierarchy. Mitigating unintended consequences requires careful evaluation of the actions taken in response to need and continued monitoring and evaluation to ensure actions are addressing disparities. Department staff can expect that more unintended consequences will arise through rulemaking and will require continued discussion and evaluation to address."

The Department staff's memo to RAC includes a benefits and burdens matrix for the Housing Production Strategy and Acceleration Program that includes the following interests:

- Cities
- Community members, particularly Communities of Color
- Community-based organizations
- State agencies
- Development and real estate interests

In the benefits and burdens matrix, "Community members, particularly Communities of Color" are noted to have both benefits and burdens in both the Housing Production Strategy and Housing Acceleration programs. One benefit of the Housing Production Strategy to this community is the increased local and state obligation to meet community members' needs, particularly those of Communities of Color and protected classes. Benefits of the Housing Acceleration program to this community include local actions to improve housing production, affordability, and choice will help provide increased housing options, particularly for those who have faced historic marginalization. Burdens of the Housing Production Strategy program on this community include the time and capacity to participate in engagement efforts, and the navigation of complex programs and processes may not be supportive to these community members. Burdens of the Housing Acceleration program include that some actions and investments can have disparate impacts depending on implementation, and that there is a potential for political backlash toward the work intended to serve this community.

Other unintended consequences are likely to be realized once the rules are implemented by local jurisdictions. The Department is in ongoing discussions with the RAC to determine how to address these issues. On an ongoing basis, the audit process will be an opportunity for the Department to evaluate the impact of a particular action on outcomes, including a review and analysis of unintended consequences, especially negative consequences for Communities of Color.

FISCAL AND ECONOMIC IMPACT:

The following are key changes in the draft OHNA administrative rules that have the greatest economic and fiscal impacts:

Increased requirements for local governments to contextualize their housing need (proposed OAR 660-008-0075), including a Fair Housing Issue Area Analysis and enhanced community engagement. This Contextualized Housing Needs assessment will serve as the foundation for completing both the Housing Capacity Analysis (HCA) and the Housing Production Strategy (HPS). The Fair Housing Issue Area Analysis uses both quantitative and qualitative data to identify and address barriers to housing production, affordability, and choice, integrating the principles of Affirmatively Furthering Fair Housing (AFFH) into the contextualization analysis. The enhanced community engagement elements ask local governments to connect directly with residents of needed housing and producers of needed housing and to develop and implement an interdepartmental engagement framework as part of the contextualization analysis.

Enhanced requirements for local governments to select actions in an HPS (proposed OAR 660-008-0200).

The proposed rules clarify expectations in selecting HPS actions including a demonstration of how the actions will meet 6- or 8-year housing needs (derived from the Housing Production Target) by affordability bracket and in alignment with the City's identified needed housing types, characteristics, and locations.

Establishment of a Housing Acceleration Program intended to track, monitor, and further housing production outcomes in local governments (proposed OAR 660-008-0300).

Each year, DLCD will refer a select number of local governments to the Housing Acceleration Program and identify those who will participate in an audit (either a standard audit or a comprehensive audit). This process will include a factfinding period, the development and publication of an audit of barriers to housing production, and the development of an Acceleration Agreement between the state and the city. The agreement may include commitments by the state to provide funding and technical assistance as part of its role in the Acceleration Agreement.

New requirements for the state to produce data, guidance, and adoption-ready actions to aid local governments in implementing Statewide Planning Goal 10 – Housing, including HPS and HCA.

While these are not addressed specifically in the draft administrative rules, they are implied throughout via references to the Housing Equity Indicators and Housing FIS and HIS for draft Administrative Rules Relating to 2023's House Bill 2001 and the Housing Production Dashboard which will be produced by OHCS (proposed OARs 660-008-0005(20)).

These draft changes to existing OARs may result in fiscal and economic impacts including the following ways (discussed in more detail below):

- A. Compliance costs for adhering to and monitoring the new planning requirements and analyses, impacting both local government and state government agencies.
- B. Costs of engaging with interested parties impacting the public, development-related businesses, community-based organizations, and local and state governments.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

Costs to State Agencies

Three state agencies have primary responsibilities in the OHNA. The Office of Economic Analysis (OEA) inside the Department of Administrative Services (DAS) will administer the OHNA methodology – an analysis that produces the Housing Production Target information local governments will incorporate as the basis of their housing planning. This involves collecting, analyzing, and publishing new housing data each year. The Oregon Housing and Community Services Department (OHCS) will produce a publicly-available housing production dashboard and information on housing equity indicators to support local governments in their planning requirements. This involves collecting, analyzing, and publishing new housing data each year. While these agencies and their actions are not directly addressed in the draft administrative rules, the rules rely on new information that they will prepare annually.

DLCD will face the largest fiscal impact from the draft administrative rules. DLCD staff will be responsible for reviewing local governments' planning documents and ensuring compliance with the program. DLCD staff will also be responsible for referring a number of local governments each year to the Housing Acceleration Program audit (proposed OAR 660-008-0325), conducting the audit including a fact-finding period and public engagement, and working with local governments to reach a Housing Acceleration Agreement (proposed OAR 660-008-0330). The number of local governments referred each year will depend on DLCD's staffing capacity and funding to support local implementation at that time. In addition, local governments may voluntarily request that DLCD conduct a non-statutory audit of local, regional, or state barriers to housing production.

When local governments go through the Housing Acceleration Program audit and reach a housing Acceleration Agreement, DLCD will be required to provide assistance which could take the form of increased regulatory review, financial or technical assistance, or the identification of external resources that can aid in housing production within that jurisdiction. Should local governments not reach an agreement or continue in noncompliance, DLCD is responsible for conducting a series of enforcement steps. The new housing accountability components of the draft administrative rules represent a significant increase in staff needs and staff effort relative to current service levels.

Additionally, there is the potential for DLCD to incur Department of Justice legal fees in situations where there are legal disputes between a local government and the agency relating to the Housing Acceleration Program audit process. DLCD is required by law to request an LCDC-issued enforcement order in response to either failure to enter or abide the terms of a housing Acceleration Agreement, which would incur legal fees and demand a modest increase in staff effort in time to review and compile legal records relative to current service levels.

The draft administrative rules require DLCD to monitor the enhanced public engagement activities that local governments must undertake in the new Goal 10 housing planning requirements. This will require staff time to track and monitor activities as well as read reports and summary documentation for sufficiency. The draft administrative rules at times require DLCD to conduct public engagement during the Housing Acceleration Program. In a memo to RAC members dated July 10, 2024, DLCD summarized its public engagement requirements when conducting a comprehensive audit:

"If a city is flagged for a comprehensive audit... the Department will also conduct targeted engagement and coordination with specific parties. Engagement can include a variety of groups such as city staff, public officials, housing developers,

community-based organizations, and priority population community members. DLCD would also coordinate with public bodies such as regional governments, special districts, utilities, and other state agencies to address barriers. This includes concurrent review by OHCS for audits related to affordable housing.”

In the Housing Acceleration Program, state agencies will incur costs relating to participating in public engagement and providing invited feedback to support DLCD’s audit of a city’s barriers to housing production. DLCD will incur the most costs relating to staff time to conduct the public engagement, invite interested party feedback, and prepare documents for public comment. OHCS is specifically identified as a concurrent reviewer of audits (proposed OAR 660-008-0320(1)) and for issues relating to affordable housing production barriers (proposed OAR 660-008-0325(6)), though the rule adjusts the number of these concurrent reviews based on anticipated OHCS capacity. The draft administrative rules also specifically identify the following for participation in public engagement during the audit process:

“Other relevant public bodies that affect housing production within the city” (proposed OAR 660-008-0325 (4)(a)(F)),
“Other relevant market or affordable housing-related actors that affect housing production within the city, including lenders, laborers, and occupants” (proposed OAR 660-008-0325 (4)(a)(H)), and
“State agency coordination as it relates to policies and programs that affect housing production within a city” (proposed OAR 660-008-0325 (4)(b)(C)).

Cost to Local Governments

Oregon cities with populations over 10,000 are required to comply with the draft administrative rules revising Goal 10 housing planning requirements. Cities and named unincorporated communities in Tillamook County (Senate Bill (SB) 406 (2023)) and Urban Unincorporated Lands in the Portland Metro Region (HB 4064 (2024)) are also required to comply with these requirements. The draft administrative rules change some planning requirements, add new planning requirements, and heighten local responsibilities for action in response to housing underproduction and equity outcomes. There are new analytical requirements, new processes for selecting actions for Housing Production Strategies, as well as modified requirements for local governments to conduct public engagement (discussed in the next section). DLCD is developing guidance, and OHCS will publish data that will aid local governments in complying with some of the new analytical requirements.

The biggest fiscal impacts resulting from the draft administrative rules will come from a local government’s participation in the Housing Acceleration Program. If referred, local governments will have to dedicate staff time to participate and provide contextual information to support a DLCD-led audit, to enter an Acceleration Agreement, and to implement the actions outlined in the Acceleration Agreement. Per ORS 197A.130(8)(a)(B), actions in the Acceleration Agreement required to be undertaken by a local government can include:

- Implementing Housing Production Strategy actions, such as changing zoning, policies, or creating a new program
- Dedicating funds for increased local capacity to facilitate housing production, affordability and choice
- Dedicating funds for public facilities and infrastructure necessary to support housing production
- Taking measures that increase the availability of development-ready land
- Amending the development code, approval criteria or procedures to reduce cost or delay to housing production
- Taking emergency temporary measures to support housing production
- Joining any DLCD-initiated mediation or coordination to identify policies and resources from other public bodies that would support housing production in the city

DLCD is producing adoption-ready actions that local governments can adopt in whole or in part by reference that will aid in developing and implementing actions that might be required in the Acceleration Agreement. The draft

administrative rules require DLCD to identify multiple actions a city could take to address a barrier identified in the audit. The city may choose one or more of the options or propose an alternative action to address the barrier, which can have potential impacts on fiscal operations depending on the specific action included in the agreement.

For example, if major infrastructure to serve housing developments was identified as a barrier to production, DLCD could identify several options for consideration in the housing Acceleration Agreement, such as revising system development charges, amending public facilities standards/exactions, or applying for state or federal funding to provide the needed infrastructure. Additionally, a city could propose an alternative to these options that addresses the barrier. Even with DLCD or other state funding for implementation, each of these options could have potential impacts on city operating revenues and costs that are contingent on both the action and its implementation.

Public Engagement

The draft administrative rules expand the public engagement that local governments will perform in implementing Goal 10. The existing Housing Production Strategy program encourages local governments to utilize relevant, recent engagement around housing planning and suggests additional, custom engagement will be needed if no other efforts are applicable. Proposed rules highlight the importance of this engagement and the manner in which local governments take action to respond directly to the findings of this engagement. Conducting meaningful public engagement will require local government staff time and could also include increased direct financial impacts such as costs related to meeting materials, documents, reservations, meeting space, software, or compensation for meeting participants. In the Housing Acceleration Program, local governments may incur costs relating to providing public comment, participating in public engagement, and providing invited feedback to support DLCD's audit of a city's barriers to housing production. This cost will vary between local governments depending on both their relative size and capacity as well as the desired extent of participation in the process. The draft administrative rules specifically identify the following opportunities for participation in public engagement during the audit process:

"City staff and public officials" (proposed OAR 660-008-0325 (4)(a)(A)), "Other relevant public bodies that affect housing production within the city" (proposed OAR 660-008-0325 (4)(a)(F)),

"County or regional coordination as it relates to urbanization and regional programs and resources, including Metro for cities within Metro" (proposed OAR 660-008-0325 (4)(b)(A)), and

"Special district and utility coordination as it relates to the provision of public facilities to support housing production" (proposed OAR 660-008-0325 (4)(b)(B)).

Costs to the Public

The draft administrative rules highlight the importance of public engagement conducted as part of Goal 10 planning requirements, which will impact the general public, particularly in the development of the Housing Production Strategy. In adopting a Housing Production Strategy, local governments must engage members of their community in order to identify specific housing needs and to take actions to further housing production, affordability, and choice to address those identified needs. This may result in more time- or resource-intensive requests on the general public.

In the Housing Acceleration Program, the general public may incur costs relating to providing public comment, participating in public engagement, and providing invited feedback to support DLCD's audit of a city's barriers to housing production. The draft administrative rules specifically identify the following for participation in public engagement during the audit process:

“Community members, including those described under OAR 660-008-0200(1) and (2)(m)” (proposed OAR 660-008-0325 (4)(a)(E)), and

“Other relevant market or affordable housing-related actors that affect housing production within the city, including lenders, laborers, and occupants” (proposed OAR 660-008-0325 (4)(a)(H)).

Costs to Small and Large Businesses and Non-profit Organizations

The draft administrative rules increase the amount of public engagement that must be conducted as part of Goal 10 planning requirements, which will impact housing and development related businesses via an increased request for participation, particularly in the development of the HPS. In the Housing Acceleration Program, housing and development related businesses may incur costs relating to submitting public comment, participating in public engagement, and providing invited feedback to support DLCD’s audit of a city’s barriers to housing production. The draft administrative rules specifically identify the following for participation in public engagement during the audit process:

“Local or regional market-rate housing developers (proposed OAR 660-008-0325(4)(a)(B)), and

“Other relevant market or affordable housing-related actors that affect housing production within the city, including lenders, laborers, and occupants” (proposed OAR 660-008-0325(4)(a)(H)).

The draft administrative rules highlight the importance of public engagement conducted as part of Goal 10 planning requirements, which will impact community-based organizations that participate in housing, development, or planning activities, or that partner with people who live in housing or are otherwise identified for public engagement. These impacts will come via elevated participation, particularly in the development of the Housing Production Strategy.

In the Housing Acceleration Program, community-based organizations may incur costs relating to submitting public comment, participating in public engagement, and providing invited feedback to support DLCD’s audit of a city’s barriers to housing production. The draft administrative rules specifically identify the following for participation in public engagement during the audit process:

“Local or regional subsidized affordable housing developers (proposed OAR 660-008- 0325 (4)(a)(C)),

“Local or regional community-based and non-governmental organizations” (proposed OAR 660-008-0325 (4)(a)(D)), and

“Other relevant market or affordable housing-related actors that affect housing production within the city, including lenders, laborers, and occupants” (proposed OAR 660-008-0325 (4)(a)(H)).

Because many affordable housing providers and resident service providers are nonprofit, community-based organizations, they will likely experience time and resource impacts related to engaging with local governments in these ways.

Summary of Fiscal Impacts

It is not possible to provide a quantitative estimate of the fiscal and economic impacts that the draft administrative rules will have on any entity affected. State agencies and local governments will have varying costs to comply with the new

requirements due to their existing capacities (staff, IT, reporting, etc.) to absorb and implement / monitor the new requirements. Costs to local government for participating in expanded public engagement will vary substantially between jurisdictions. Additionally, costs will depend on whether a local government is referred to the Housing Acceleration Program, whether it has a comprehensive or standard audit, and the actions agreed upon in the final Acceleration Agreement.

Costs to state agencies for administering the Housing Acceleration Program will depend on the number and depth of review for local governments that are either underperforming or out of compliance in a given year. Costs to community-based organizations, housing and development related businesses, and the general public related to participating in public engagement activities will depend on whether or not a local government is referred to the housing acceleration program and whether it has a comprehensive or standard audit, whether or not DLCD needs to invite interested party feedback to perform its audit, and whether or not financial stipends are given to offset costs.

DLCD will likely face the largest fiscal and economic impacts from the draft administrative rules. OHCS will face some impacts. Local governments who underperform on housing production or are otherwise out of compliance on Goal 10 requirements will face some impacts due to the need to pursue additional housing production actions or get back into compliance. The impact to the agency cannot be quantified at this time because costs will vary based on the level of cooperation.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The RAC includes representation from many business interests. These include the Oregon Home Builders Association and Oregon Realtors, both of which represent the interests of small (and large) businesses that have a direct interest in the rule amendments. The RAC also includes representation from many non-profit organizations that provide both housing and services to residents impacted by the proposed rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

HOUSING IMPACT STATEMENT:

The draft administrative rules will not materially impact the cost of land or cost of development for a 1,200 square foot single-family home on a 6,000 square foot lot. The draft administrative rules do not directly affect the cost of materials, land, or labor to develop housing. The expected effect on the overall supply of housing is not possible to estimate as the proposed rules only serve to establish a framework by which local governments reduce barriers to the production of needed housing. In this manner, the supply of housing is expected to vary statewide depending on local implementation and market conditions; although it is anticipated that housing availability will increase statewide. Therefore, the effect will likely be positive overall.

The draft administrative rules could impact the administrative and regulatory costs of developing housing. If local governments remove barriers to housing production that are within their control, this could increase the speed, certainty, and/or efficiency of development, thereby reducing costs. The draft administrative rules encourage local governments to select actions in their Housing Production Strategies that remove barriers to housing production. Local governments who participate in the Housing Acceleration Program may agree to undertake additional actions that remove barriers to housing production that increase the speed and/or reduce the cost of housing development.

Additionally, local actions in a Housing Production Strategy could indirectly affect costs associated with land or development, such as allowing more housing units on land or enabling and incentivizing cheaper construction methods, such as prefabricated housing. Most often, local actions will reduce the costs associated with development, though

some actions may include trade-offs that increase development costs in order to deliver other public benefits, such as promoting physical accessibility of housing. It is not possible to quantify the impact of the rules on the cost of developing a 1,200 square foot single-family home on a 6,000 square foot lot since costs and conditions vary significantly across the state. Additionally, the extent to which local or state actions will reduce administrative and regulatory costs of housing will vary substantially between local governments based on both local market conditions and the types of actions taken.

RULES PROPOSED:

660-008-0000, 660-008-0005, 660-008-0010, 660-008-0015, 660-008-0020, 660-008-0025, 660-008-0030, 660-008-0035, 660-008-0040, 660-008-0045, 660-008-0050, 660-008-0055, 660-008-0060, 660-008-0065, 660-008-0070, 660-008-0075, 660-008-0080, 660-008-0110, 660-008-0120, 660-008-0125, 660-008-0200, 660-008-0210, 660-008-0215, 660-008-0230, 660-008-0240, 660-008-0300, 660-008-0310, 660-008-0315, 660-008-0320, 660-008-0325, 660-008-0330, 660-008-0335

AMEND: 660-008-0000

RULE SUMMARY: This rule describes the intent and purpose of OAR 660-008-0000 to OAR 660-008-0335. The purpose of this division is to ensure there are enough safe, accessible and affordable housing units available and to use land efficiently within urban growth areas. It aims to make the development process more predictable and to create a system to evaluate and improve housing production, affordability, and choice.

CHANGES TO RULE:

660-008-0000

Purpose ¶

(1) The purpose of this division is to ensure opportunity for and promote the provision of adequate numbers of needed housing units, the efficient use of buildable land within urban growth boundaries, ~~and to~~ across all communities in the state, provide greater certainty in the development process so as to reduce housing costs. ~~This division is intended to provide standards for compliance with Goal 10 "Housing" and to implement ORS 197.303 through, and to provide a framework for evaluation and progress on housing production, affordability, and choice. Additionally, this division aims to promote safe, accessible, and affordable housing options for all Oregonians in their communities of choice, in alignment with the Affirmatively Furthering Fair Housing mandate. This division emphasizes fair housing outcomes, environmental justice, climate mitigation and resilience, and access to opportunity, following the principles of transparency, public engagement, and sustainability as provided in ORS 197A.025. This division provides standards for compliance with Goal 10 "Housing" and to implement ORS chapter 197A, ORS 184.453, and ORS 184.455, which include statewide allocation of housing need under the Oregon Housing Needs Analysis. This division also operationalizes the Housing Acceleration program of the Oregon Housing Needs Analysis as provided in ORS 197.A.1307.¶~~

(2) OAR chapter 660, division 7, Metropolitan Housing, is intended to complement and be consistent with OAR chapter 660, division 8 and Statewide Planning Goal 10 Housing (OAR 660-015-0000(10)). Should differences in interpretation between division 8 and division 7 arise, the provisions of division 7 shall prevail for cities and counties within the Metro urban growth boundary.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.2950 - 197.314, ORS 197.475 - 197.493, ORS 197A.015-197A.470

AMEND: 660-008-0005

RULE SUMMARY: The definitions rule provides clear and precise meanings for key terms used throughout Division 8. The rule includes terms and phrases that may a) have a special meaning in rule, b) have a statutory definition, or c) reflect an implementation requirement.

CHANGES TO RULE:

660-008-0005

Definitions ¶¶

For the purpose of this division, the definitions in ~~ORS 197.015, 197.295, 184.453, 184.455, 197.015, 197.660, 197A.015, 197A.018, 197A.210, 197A.230, 197A.300, 197A.348, and 197.303A, 420~~ shall apply. In addition, the following definitions shall apply:¶¶

- ~~(1) "Attached Single Family Housing" means common-wall dwellings or rowhouses where each dwelling unit occupies a seccessible" has the meaning provided in OAR 660-012-0005(3).¶¶~~
- ~~(2) "Action" means a specific policy, code, program, investment, administrative measure, advocacy effort, or other tool included in a Housing Production Strategy in alignment with ORS 197A.100(3) and (4), which commits to implementation.¶¶~~
 - ~~(a) An action may include exploratory work as an initial critical step in order to refine and implement an action.¶¶~~
 - ~~(b) An action may identify an alternate action that meets the same housing need and is of commensurate magnitude of impact as the primary action. A city may pursue an alternate action in lieu of the primary action in the event exploratory work or other circumstances suggest the primary action is not feasible. Compliance with the action implementation year as identified according to OAR 660-008-0200(2)(d) may be met by implementation of either the primary or the alternate action.¶¶~~
 - ~~(c) An action may include substantial expansion of existing programming that has proven to meet the city's needed housing types, character-~~let~~.¶¶~~
~~(2)ristics, or locations or remedy or mitigate fair housing issues.¶¶~~
- ~~(3) "Affirmatively furthering fair housing" has the meaning provided in ORS 197A.100(9).¶¶~~
- ~~(4) "Allocated housing need" has the meaning provided in ORS 197A.015(1).¶¶~~
- ~~(5) "Buildable Land" means residentially designated land within the urban growth boundary, including both vacant and developed land likely to be redeveloped, that is suitable, available and necessary for residential uses. Publicly owned land is generally not considered available for residential uses. Land is generally considered "suitable and available" unless it:¶¶~~
 - ~~(a) Is severely constrained by natural hazards as determined under Statewide Planning Goal 7;¶¶~~
 - ~~(b) Is subject to natural resource protection measures determined under Statewide Planning Goals 5, 6, 15, 16, 17 or 18;¶¶~~
 - ~~(c) Has slopes of 25 percent or greater;¶¶~~
 - ~~(d) Is within the 100-year flood plain; or¶¶~~
 - ~~(e) Cannot be provided with public facilities.¶¶~~
- ~~(36) "Consumers of Needed Housing" means any persons who inhabit or are anticipated to inhabit Needed Housing; characteristics" means the attributes or features of residential units that describe their physical, structural, functional, ownership and tenure aspects, or any combination thereof. Characteristics include at minimum but are not limited to:¶¶~~
 - ~~(a) Interior and exterior features to meet accessibility needs for all ages and disabilities including mobility, auditory, visual, mental and behavioral, and other disabilities and age-related needs like caregiving with emphasis on the needs of older adults;¶¶~~
- ~~(4b) "Detached Single Family Housing" means a housing unit that is free standing and separate from other housing units; Number of bedrooms and bathrooms;¶¶~~
 - ~~(c) Livability of layouts including eating, sleeping, bathing, and cleaning on one level with a zero-step entrance;¶¶~~
 - ~~(d) Number of complete living spaces within the unit or with adjacent units to support multi-generational living;¶¶~~
 - ~~(e) Construction type including site-framed and prefabricated;¶¶~~
 - ~~(f) Culturally relevant features like multiple kitchens and interior and exterior layouts with accommodating gathering spaces;¶¶~~
- ~~(5g) "Housing Capacity Analysis" means a document, incorporated into a city's comprehensive plan by ordinance, which complies with the provisions of ORS 197.296. A Housing Capacity Analysis is an assessment of housing need and capacity that includes the inventory, determination, and analysis required under ORS 197.296 Affordability, including government assisted housing;¶¶~~
- ~~(h) Tenure type including rental; market-, shared-, limited-, and zero-equity ownership structures as applied to~~

various tenure models like community land trusts and resident-owned cooperatives; fee simple ownership;¶
 (i) Climate adaptation and mitigation features including energy efficiency building science, water conservation in appliances and site design, stormwater management, and ventilation and indoor air quality; and¶
 (j) Trauma-informed features and design including the built environment and operational plans and practices.¶
 (7) "City" has the meaning provided in ORS 197A.015(3).¶
 (8) "Community Members of Needed Housing" means any persons who inhabit or are anticipated to inhabit Needed Housing.¶
 (9) "Contextualized Housing Need" means the deliverable associated with complying with OAR 660-008-0075 and which, through the framework of Affirmatively Furthering Fair Housing, identifies the needed housing types, characteristics, and locations in a city that will be planned for throughout Goal 10 work.¶
 (10) "Development ready lands" has the meaning provided in ORS 197A.015(4).¶
 (11) "Environmental justice" has the meaning provided in ORS 182.535(3).¶
 (612) "Housing Needs Projection" refers to a local determination, justified in the plan, of the mix of housing types, amounts and densities that will be:¶
 (a) ~~Com~~Exploratory work" means studies, research, and other planning analyses intended to inform a city's housing production strategy planning work but which are noncommittal in nature and do not on their own meet the definition of an action. Exploratory work may be a subtask of an action to further refine an action. Exploratory work may be included in an HPS and planned independently of a specific action, such as to inform future HPSs, however, the department will not consider that work to function as an action that meets housing need in the current HPS cycle.¶
 (13) "Fair housing choice" meansurate with the financial capabilities of present and future area residents of all income levels during the plann individuals and households having the information, opportunity, and options to live where they choose without unlawful discrimination and other barriers related to Federal Fair Housing Act protected classes, all state protected classes, all locally protected classes, named communities in Needed Housing (ORS 197A.018), Tribal Communities and any community experiencing disparate housing outcomes, and that their choices realistically include housing options that are affordable, accessible, and in areas with access to opportunity and community assets including p̄s̄er̄īōd;¶
 (b) Consistent with any adopted regional housing standards, state statutes and Commission administrative rules; and¶
 (c) Consistent with Goal 14 requirements.¶
 (7) "Housing Production Strategy" means a specifives specific to protected class needs. ¶
 (14) "Fair Housing Issue" means a condition in a city that restricts fair housing choice or access to opportunity, results in inequitable housing outcomes, or any combination thereof.¶
 (15) "Fair Housing Issue Area Analysis" means an analysis of a city's current housing conditions to identify fair housing issues.¶
 (16) "Housing Acceleration Agreement" means a document signed by the director and an authorized representative of the city that complies with provisions of ORS 197A.130(6) to (8). The Housing Acceleration Agreement identifies remedies to barriers as identified in a department-led audit published under OAR 660-008-0325. The Housing Acceleration Agreement specifies the actions, parameters, timelines, and resources with which tool, action, policy, or measure a city will implement to meet the housing needs described in a Housing Capacity Analysis. A Housing Production Strategy is one component of a he department and the city must respond. The Housing Acceleration Agreement is based on and proportionate to the city's basis for referral.¶
 (17) "Housing Capacity Analysis" means a document, incorporated into a city's comprehensive plan by ordinance, which complies with the provisions of ORS 197.296, 197A.270, 197A.289, and 197A.335. A Housing Capacity Analysis is an assessment of housing need and capacity that includes the inventory, determination, and analysis required under ORS 197.296(3), 197A.270(3)-(4).¶
 (18) "Housing equity indicators" means the information annually produced by the Housing and Community Services Department under ORS 456.602.¶
 (19) "Housing Production Strategy" has the meaning provided in ORS 197A.015(7).¶
 (20) "Housing Pproduction Strategy Rdashboard" means the information annually produced by the Housing and Community Services Dep̄ōr̄t̄m̄ēn̄t under ORS 456.601.¶
 (821) "Housing Production Strategy Report" means the report cities must adopt within one year of their deadline to complete an updated Housing Capacity Analysis, Target" has the meaning provided in ORS 184.455.¶
 (22) "Location" means a specific geographic area or series of areas within a city's boundaries or approved expansion areas. Locations can significantly impact equity, quality of living, and access to opportunity. Locations include at a minimum but are not limited to:¶
 (a) Community assets, including but not limited to:¶
 (A) Key destinations as defined by OAR 660-012-0360(2), and¶
 (B) Areas with multimodal connectivity infrastructure, including the availability of road networks, public transit

options, bike lanes, and pedestrian pathways;

(b) Harms, including but not limited to;

(A) Environmental conditions that may lead to harm such as areas prone to natural hazards, industrial uses, and highways and freeways; and

(B) Areas that are segregated by race and income; concentrated racially and economically; or both.

(23) "Manufactured Dwelling Park" has the meaning provided in ORS 446.003.

(24) Middle Housing" has the meaning provided in ORS 197A.420(1)(c)(A)-(E).

(25) "Midpoint Report" means a report that a city submits to the department half-way through a Housing Production Strategy cycle pursuant to OAR 660-008-0050215.

(26) "Multiple Family-unit Housing" means attached housing developed with five units or more where each dwelling unit is not located on a separate lot and is not Middle Housing.

(27) "Needed Housing" means housing types determined to meet the need shown for housing within an urban growth boundary has the meaning provided in ORS 197A.018.

(28) "Oregon Housing Needs Analysis" has the meaning provided in ORS 184.451.

(29) "Past discriminatory actions or practices related to land and housing access" means policies, programs, and other practices which oppressed and discriminated against Federal Fair Housing Act protected classes, all state particular price range protected classes, all locally protected classes, named communities in Needed Housing (ORS 197A.018), Tribal Communities and any community experiencing disparate housing outcomes, and rent levels, in which are particularly oriented to place, belonging, stability, housing, wealth-building, at least the following housing types:

(a) Attached and the lands themselves that occurred in the city and region. This includes but is not limited to:

(a) The historical and ongoing actions affecting the Indigenous stewards and detached single-family housing and multiple family housing for residents of the lands, including land seizure, massacre, termination, attempted erasure, and displacement; the geographic locations of land seizure and displacement including reservations and treaty lands;

(b) The imposition of the owner and renter occupancy;

(b) Government assisted housing;

(c) Mobile home or manufactured dwellingship model on the land; the Donation Land Act and the associated land grants made exclusively to white settlers in the mid-nineteenth century; laws illegalizing ownership of land for women, Black people, Indigenous people, People of Color, and other protected class identities or marginalized identities experiencing disparate housing outcomes;

(c) Land and housing access restrictions like sundown laws and their geographic boundaries; segregated schools, neighborhoods, 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 farmworker and natural areas and their locations; mortgage redline maps; insurance blueline maps; histories of block-busting practices; and unnecessary institutionalization and incarceration.

(d) Urban renewal and large public works projects that displaced communities, including transportation infrastructure projects, freeway development, and other uses of eminent domain to seize property and wealth; land use and zoning decisions that systematically excluded or segregated marginalized communities, limited their access to desirable neighborhoods, or enforced discriminatory land use practices; and

(e) Other occurrences of property seizure, unsafe living conditions, and displacement based on protected class status or other marginalized identities.

(30) "Producers of Needed Housing" means developers, builders, service providers, or other persons or entities providing materials and funding needed to build Needed Housing. Producers of Needed Housing may include non-profit organizations, for-profit organizations, or public entities.

(31) "Protected Class" includes the meaning provided in ORS 659A.425, which encompasses federally protected classes and Oregon's state protected classes, in addition to any locally protected classes as applicable.

(32) "Public body" has the meaning defined in ORS 174.109.

(33) "Redevelopable Land" means land zoned for residential use on which development has already occurred but on which, due to present or expected market forces, there exists the strong likelihood that existing development will be converted to more intensive residential uses during the planning period.

(34) "Tenure" means the full range of housing tenure types, encompassing forms of occupancy and ownership, including but not limited to rental arrangements, full equity owner-occupancy, and shared equity, zero equity, or limited equity models such as community land trusts and cooperatives.

(35) "Single-Room Occupancy Housing" has the meaning provided in ORS 197A.430.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.2950 - 197.314, ORS 197.475 - 197.493, ORS 197A.015-197A.470

REPEAL: 660-008-0010

RULE SUMMARY: The Allocation of Buildable Land is an analysis that designates land on the comprehensive plan map to satisfy housing needs by type and density range as determined in the housing needs projection.

CHANGES TO RULE:

~~660-008-0010~~

~~Allocation of Buildable Land~~

~~(1) The mix and density of needed housing is determined in the housing needs projection. Sufficient buildable land shall be designated on the comprehensive plan map to satisfy housing needs by type and density range as determined in the housing needs projection. The local buildable lands inventory must document the amount of buildable land in each residential plan designation.~~

~~(2) For purposes of preparing Housing Capacity Analyses as provided in OAR 660-008-0045, the following provisions apply to local governments that are subject to OAR 660-012-0310(2):~~

~~(a) Following the initial designation of climate-friendly areas as required in OAR 660-012-0315, local governments shall maintain climate-friendly area zones with sufficient zoned residential building capacity to contain at least 30 percent of current and projected housing needs. However, the local government shall determine housing capacity within the climate-friendly area for the purpose of meeting identified housing needs as required by Goal 10 and this division in a manner consistent with ORS 197.296(5).~~

~~(b) The local government shall calculate the zoned residential building capacity within climate-friendly areas consistent with the provisions of OAR 660-012-0315(2), or utilizing an alternative methodology as provided in OAR 660-012-0320(10). The local government shall include demonstration of compliance with this requirement in each subsequent Housing Capacity Analysis.~~

~~(c) The local government shall establish land use requirements in climate-friendly areas as provided in OAR 660-012-0320 for any newly designated climate-friendly area concurrent with or prior to the adoption of a Housing Capacity Analysis.~~

~~(3) Beginning June 30, 2027:~~

~~(a) A local government subject to OAR 660-012-0310(2) that has identified a need to expand its urban growth boundary to accommodate an identified residential land need shall designate and zone additional climate-friendly area as provided in OAR 660-012-0315 concurrent with expansion of the urban growth boundary.~~

~~(b) A local government shall designate and zone climate-friendly area of sufficient size to accommodate the number of housing units equivalent to one-half of the number of additional housing units that cannot reasonably be accommodated within the current urban growth boundary.~~

~~(c) The local government shall calculate the climate-friendly area needed based on zoned residential building capacity as provided in OAR 660-012-0315(2), or utilizing an alternative methodology as provided in OAR 660-012-0320(10), while the local government shall determine housing capacity within the climate-friendly area for the purpose of meeting identified housing needs as required by Goal 10 and this division in a manner consistent with ORS 197.296(5). Identified housing needs that would otherwise necessitate an urban growth boundary expansion shall only be accommodated in climate-friendly areas to the extent that the production of needed housing types within the climate-friendly areas may be anticipated consistent with ORS 197.296(5).~~

~~(d) The local government may choose to designate a portion of the newly expanded urban growth boundary area as climate-friendly area if the area qualifies for designation as provided in OAR 660-012-0310(2), or may choose to designate additional climate-friendly area in other locations within the urban growth boundary that qualify for designation.~~

~~(e) The local government may accommodate additional climate-friendly areas within one or more locations within the urban growth boundary. The designation and zoning of additional climate-friendly area shall comply with all applicable requirements for climate-friendly areas as provided in OAR 660-012-0310 through OAR 660-012-0325.~~

~~Statutory/Other Authority: ORS 197.040~~

~~Statutes/Other Implemented: ORS 197.296–197.314, 197.475–197.490, ORS 197.012, ORS 197.286~~

AMEND: 660-008-0015

RULE SUMMARY: This rule requires cities to adopt clear and objective standards for the development of needed housing on buildable land, ensuring that these standards do not unreasonably increase costs or cause delays.

CHANGES TO RULE:

660-008-0015

Clear and Objective Approval Standards Required ¶¶

(1) Except as provided in section (2) of this rule, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of needed housing on buildable land. The standards, conditions and procedures may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.¶¶

(2) In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in section (1) of this rule, a local government may adopt and apply an optional alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:¶¶

(a) The applicant retains the option of proceeding under the approval process that meets the requirements of section (1);¶¶

(b) The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and¶¶

(c) The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in section (1) of this rule.¶¶

(3) Subject to section (1), this rule does not infringe on a local government's prerogative to:¶¶

(a) Set approval standards under which a particular housing type is permitted outright;¶¶

(b) Impose special conditions upon approval of a specific development proposal; or¶¶

(c) Establish approval procedures.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.2950 - 197.314, ORS 197.475 - 197.493, ORS 197A.400

REPEAL: 660-008-0020

RULE SUMMARY: Plan designations that allow or require residential uses shall be assigned to all buildable land. The plan designations assigned to buildable land shall be specific so as to accommodate the varying housing types and densities identified in the local housing needs projection.

CHANGES TO RULE:

~~660-008-0020~~

~~Specific Plan Designations Required~~

~~(1) Plan designations that allow or require residential uses shall be assigned to all buildable land. Such designations may allow nonresidential uses as well as residential uses. Such designations may be considered to be "residential plan designations" for the purposes of this division. The plan designations assigned to buildable land shall be specific so as to accommodate the varying housing types and densities identified in the local housing needs projection.~~

~~(2) A local government may defer the assignment of specific residential plan designations only when the following conditions have been met:~~

~~(a) Uncertainties concerning the funding, location and timing of public facilities have been identified in the local comprehensive plan;~~

~~(b) The decision not to assign specific residential plan designations is specifically related to identified public facilities constraints and is so justified in the plan; and~~

~~(c) The plan includes a time-specific strategy for resolution of identified public facilities uncertainties and a policy commitment to assign specific residential plan designations when identified public facilities uncertainties are resolved.~~

~~Statutory/Other Authority: ORS 197.040~~

~~Statutes/Other Implemented: 197.295 - 197.314, 197.475 - 197.490~~

REPEAL: 660-008-0025

RULE SUMMARY: A local government may defer rezoning of land within an urban growth boundary to maximum planned residential density provided that the process for future rezoning is reasonably justified.

CHANGES TO RULE:

~~660-008-0025~~

~~The Rezoning Process~~

~~A local government may defer rezoning of land within an urban growth boundary to maximum planned residential density provided that the process for future rezoning is reasonably justified. If such is the case, then:~~

~~(1) The plan shall contain a justification for the rezoning process and policies which explain how this process will be used to provide for needed housing.~~

~~(2) Standards and procedures governing the process for future rezoning shall be based on the rezoning justification and policy statement, and must be clear and objective and meet other requirements in OAR 660-008-0015.~~

~~Statutory/Other Authority: ORS 197.040~~

~~Statutes/Other Implemented: ORS 197.295 - 197.314, 197.475 - 197.490~~

REPEAL: 660-008-0030

RULE SUMMARY: This rule describes requires local governments to coordinate regionally in fairly determining and allocating local housing needs, types, and densities across localities within the region.

CHANGES TO RULE:

~~660-008-0030~~

~~Regional Coordination~~

~~(1) Each local government shall consider the needs of the relevant region in arriving at a fair allocation of housing types and densities.¶~~

~~(2) The local coordination body shall be responsible for ensuring that the regional housing impacts of restrictive or expansive local government programs are considered. The local coordination body shall ensure that needed housing is provided for on a regional basis through coordinated comprehensive plans.~~

~~Statutory/Other Authority: ORS 197.040~~

~~Statutes/Other Implemented: ORS 197.295–197.314, 197.475–197.490~~

REPEAL: 660-008-0035

RULE SUMMARY: This rule describes the standards by which a local government may take a Goal 2, Part II exception related to the local housing needs projection. These standards include regional satisfaction of need of the housing type, sufficient buildable land allocation that meets the needs otherwise provided for by the excluded housing type, and support of the excluded housing type exists in the comprehensive plan and other affected units of government.

CHANGES TO RULE:

~~660-008-0035~~

~~Substantive Standards for Taking a Goal 2, Part II Exception Pursuant to ORS 197.303(3)~~

~~(1) A local government may satisfy the substantive standards for exceptions contained in Goal 2, Part II, upon a demonstration in the local housing needs projection, supported by compelling reasons and facts, that:~~

~~(a) The needed housing type is being provided for elsewhere in the region in sufficient numbers to meet regional needs;~~

~~(b) Sufficient buildable land has been allocated within the local jurisdiction for other types of housing which can meet the need for shelter at the particular price ranges and rent levels that would have been met by the excluded housing type; and~~

~~(c) The decision to substitute other housing types for the excluded needed housing type furthers the policies and objectives of the local comprehensive plan, and has been coordinated with other affected units of government.~~

~~(2) The substantive standards listed in section (1) of this rule shall apply to the ORS 197.303(3) exceptions process in lieu of the substantive standards in Goal 2, Part II.~~

~~Statutory/Other Authority: ORS 197.040~~

~~Statutes/Other Implemented: ORS 197.295 - 197.314, 197.475 - 197.490~~

REPEAL: 660-008-0040

RULE SUMMARY: This rule requires a determination of housing need related to tenure to justify any local government restrictions on housing tenure.

CHANGES TO RULE:

~~660-008-0040~~

~~Restrictions on Housing Tenure~~

~~Any local government that restricts the construction of either rental or owner occupied housing shall include a determination of housing need according to tenure as part of the local housing needs projection.~~

~~Statutory/Other Authority: ORS 197.040~~

~~Statutes/Other Implemented: ORS 197.295 - 197.314, 197.475 - 197.490~~

AMEND: 660-008-0045

RULE SUMMARY: This rule describes the deadlines, process, and schedule for Housing Capacity Analyses and Housing Production Strategies. It requires the Department to publish the schedule annually.

CHANGES TO RULE:

660-008-0045

Housing Capacity Analysis and Housing Production Strategy Deadlines

Cities described in ORS 197A.296(2)(a)(B) and (10)(c)(B) shall demonstrate sufficient Buildable Lands 70, 197A.280, and 197A.335 shall adopt a Housing Capacity Analysis and adopt a Housing Production Strategy as scheduled by the Commission.

(1) The Department shall publish the calendar schedule of Housing Capacity Analyses and Housing Production Strategies deadlines for Cities identified under ORS 197A.296(2)(a)(B) or (10)(c)(B) in Exhibit 70, 197A.280, and 197A.335 in Attachment A.

(2) The deadline for adoption of a Housing Capacity Analysis and a Housing Production Strategy in a given year is December 31st.

(3) A city The department will be considered a city to have met its obligation to adopt a Housing Capacity Analysis upon adoption of the Housing Capacity Analysis by ordinance. A subsequent appeal of the Housing Capacity Analysis will not be considered a failure to comply with the deadline provided in Exhibit Attachment A provided in section (1).

(4) The department will consider a city to have met its obligation to adopt a Housing Production Strategy upon adoption of the Housing Production Strategy.

(5) Upon adoption of a Housing Capacity Analysis, the deadline for a subsequent Housing Capacity Analysis is as follows:

(a) Eight years subsequent for cities that are not within a metropolitan service district; or

(b) Six years subsequent for cities that are within a metropolitan service district Metro.

(6) The Housing Production Strategy is due one year after the city's deadline for completing a Housing Capacity Analysis, as prescribed by the department's schedule of Housing Capacity Analysis and Housing Production Strategy deadlines in Attachment A.

(5) If a population estimate developed under ORS 195.033 and OAR 660-032-0020 and OAR 660-032-0030 results in a city qualifying under ORS 197A.296(2)(a)(B) or (10)(c)(B) 70, 197A.280, and 197A.335, the city must adopt a Housing Capacity Analysis within two years of its qualification or the interval provided in section (45), whichever is the longer period.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.290-197.303, ORS 197.291A.100, ORS 197A.29370, ORS 197A.29680, ORS 197A.3035

RULE SUMMARY: This rule describes the structure and components of a Housing Production Strategy.

CHANGES TO RULE:

660-008-0050

Housing Production Strategy Report Structure

As provided in ORS 197.290(2), a city with a population of more than 10,000 people must develop and adopt a Housing Production Strategy Report that includes a list of specific actions, including the adoption of measures and policies that the city shall undertake to promote development within the city to address a housing need identified under ORS 197.296(3) or (10) for the most recent 20-year period described in the city's Housing Capacity Analysis. At a minimum, this Report must include the following components:¶¶

(1) Contextualized Housing Need – A contextualization and incorporation of information from the most recent Housing Capacity Analysis that describes current and future housing needs in the context of population and market trends.¶¶

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

(A) Socio-economic and demographic trends of households living in existing Needed Housing. This must include a disaggregation of households living in existing Needed Housing by race and ethnicity;¶¶

(B) Measures already adopted by the city to promote the development of Needed Housing;¶¶

(C) Market conditions affecting the provision of Needed Housing;¶¶

(D) Existing and expected barriers to the development of Needed Housing;¶¶

(E) An estimate of the number of people or households experiencing homelessness. Estimates must include, as available, the following data sources:¶¶

(i) An estimate of regional housing need for people experiencing homelessness provided by the state or regional entity;¶¶

(ii) The applicable Housing and Urban Development Point-in-Time count conducted by the Continuum of Care that the city is located within;¶¶

(iii) The applicable Housing and Urban Development Annual Homelessness Assessment Report; and¶¶

(iv) The applicable McKinney-Vento Homeless Student Data for all school districts that overlap with the city boundary.¶¶

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

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

(H) Housing needs for people with disabilities, including hearing, vision, cognitive, ambulatory, self-care difficulty, and independent living as provided in the applicable American Community Survey and other data sets, as available.¶¶

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

(A) The percentage of housing stock that is market rate compared to the percentage of housing stock that is subsidized to make it affordable;¶¶

(B) Units that the city has permitted but which have not yet been produced;¶¶

(C) Population groups that are not typically accounted for in a Housing Capacity Analysis, including but not limited to college and university students or second homeowners;¶¶

(D) Redevelopment rates that impact the preservation of existing affordable market-rate units; and¶¶

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

(i) Data collected by local Coordinated Care Organizations;¶¶

(ii) Data collected by community action agencies;¶¶

(iii) The capacity of existing emergency shelters;¶¶

(iv) Rental and homeowner vacancy rates;¶¶

(v) Change in gross or net property values or rent over time;¶¶

(vi) Qualitative data that illustrate specific needs of people experiencing homelessness; and¶¶

(vii) Other local houseless population datasets¶¶

(2) Engagement – A Housing Production Strategy Report must include a narrative summary of the process by which the city engaged Consumers of Needed Housing and Producers of Needed Housing, especially with regard to state and federal protected classes. A city may conduct engagement for a Housing Production Strategy concurrent with other housing planning efforts within the city including, but not limited to, a Housing Capacity Analysis, Consolidated Plans for Community Development Block Grant Entitlement Communities, and public engagement for Severely Rent Burdened Households as described in OAR 813-112-0010. The narrative summary must include the following elements:¶¶

(a) A list and description of stakeholders who will be impacted by potential Housing Production Strategies, stating

who was engaged and why, including Consumers of Needed Housing and Producers of Needed Housing;¶¶

(b) A summary of feedback received from each stakeholder group;¶¶

(c) A description of how the information from stakeholders influenced implementation of Housing Production Strategies adopted by the city as provided in section (3); and¶¶

(d) An evaluation of how to improve engagement practices for future housing engagement efforts conducted by the city.¶¶

(3) Strategies to Meet Future Housing Need—A Housing Production Strategy Report must identify a list of specific actions, measures, and policies needed to address housing needs identified in the most recent Housing Capacity Analysis. The strategies proposed by a city must collectively address the next 20-year housing need identified within the most recent Housing Capacity Analysis and contextualized within the Report as provided in section (1). A Housing Production Strategy Report may identify strategies including, but not limited to, those listed in the Housing Production Strategy Guidance for Cities published by the Commission under Exhibit B. For each identified Housing Production Strategy, the Housing Production Strategy Report must include:¶¶

(a) A description of the Housing Production Strategy chosen;¶¶

(b) A timeline for adoption of the Housing Production Strategy;¶¶

(c) A timeline for implementation of the Housing Production Strategy; and¶¶

(d) An estimated magnitude of impact of the Housing Production Strategy, including:¶¶

(A) Housing need addressed by the identified Housing Production Strategy by tenure and income;¶¶

(B) An estimate of the number of housing units that are anticipated to be created through implementation of the identified Housing Production Strategy;¶¶

(C) An analysis of the income and demographic populations that are anticipated to receive benefit or burden from the Housing Production Strategy, including:¶¶

(i) Low-income communities;¶¶

(ii) Communities of color;¶¶

(iii) People with disabilities; and¶¶

(iv) Other state and federal protected classes; and¶¶

(D) A time frame over which the Housing Production Strategy is expected to impact Needed Housing.¶¶

(4) Achieving Fair and Equitable Housing Outcomes—A Housing Production Strategy Report must include a narrative summarizing how the selected Housing Production Strategies, in combination with other city actions, will achieve equitable outcomes with regard to the following factors:¶¶

(a) Location of Housing—How the city is striving to meet statewide greenhouse gas emission reduction goals, established under Executive Order No. 20-04, by creating compact, mixed-use neighborhoods available to people who are members of state and federal protected classes. Within Metro, cities subject to this rule shall describe actions taken by the city to promote the production of regulated affordable units, as defined in ORS 456.586(1)(b); to promote the production of accessible dwelling units; to mitigate or avoid the displacement of members of state and federal protected classes; and to remove barriers and increase housing choice for members of state and federal protected classes within Region 2040 centers. Cities subject to this rule and OAR 660-012-0310(2) shall describe actions taken by the city to promote the production of regulated affordable units, as defined in ORS 456.586(1)(b); to promote the production of accessible dwelling units; to mitigate or avoid the displacement of members of state and federal protected classes; and to remove barriers and increase housing choice for members of state and federal protected classes within climate-friendly areas. An accessible dwelling unit is a dwelling unit constructed to accommodate persons with disabilities, in compliance with the Americans with Disabilities Act and applicable construction requirements in adopted building codes;¶¶

(b) Fair Housing—How the city is affirmatively furthering fair housing for all state and federal protected classes. Affirmatively furthering fair housing means addressing disproportionate housing needs, patterns of integration and segregation, racially or ethnically concentrated areas of poverty, and disparities in access to housing opportunity;¶¶

(c) Housing Choice—How the city is facilitating access to housing choice for communities of color, low-income communities, people with disabilities, and other state and federal protected classes. Housing choice includes access to existing or new housing that is located in neighborhoods with high-quality community amenities, schooling, employment and business opportunities, and a healthy and safe environment.¶¶

(d) Housing options for residents experiencing homelessness—How the city is advocating for and enabling the provision of housing options for residents experiencing homelessness and how the city is partnering with other organizations to promote services that are needed to create permanent supportive housing and other housing options for residents experiencing homelessness;¶¶

(e) Affordable Homeownership and Affordable Rental Housing—How the city is supporting and creating opportunities to encourage the production of affordable rental housing and the opportunity for wealth creation via homeownership, primarily for state and federal protected classes that have been disproportionately impacted by past housing policies; and¶¶

(f) Gentrification, Displacement, and Housing stability – How the city is increasing housing stability for residents and mitigating the impacts of gentrification, as well as the economic and physical displacement of existing residents resulting from investment or redevelopment.¶¶

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

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

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

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

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

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

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.290, ORS 197.291, ORS 197.293, ORS 197.296, ORS 197.303, ORS 197.012

REPEAL: 660-008-0055

RULE SUMMARY: This rule describes the procedure by which the Department reviews Housing Production Strategies.

CHANGES TO RULE:

660-008-0055

Review of Housing Production Strategy Reports

- (1) No later than 20 days after a city's adoption or amendment of a Housing Production Strategy Report, a city must submit the adopted Report or amended Report to the Department.¶
- (2) On the same day the city submits notice of the Housing Production Strategy Report or amended Report to the Department, the city must provide a notice to persons who participated in the proceedings that led to the adoption of the Housing Production Strategy Report and requested notice in writing.¶
- (3) Within ten days of receipt of the submission under section (1), the Department must provide notice to persons described under ORS 197.615 (3).¶
- (4) Notices given under sections (2) and (3) must state:¶
 - (a) How and where materials described under section (5) may be freely obtained;¶
 - (b) That comments on the Housing Production Strategy Report may be submitted to the Department within 45 days after the Department has received the submission under section (1); and¶
 - (c) That there is no further right of appeal of the Department's decision under section (7).¶
- (5) The submission under section (1) must include copies of:¶
 - (a) The signed decision adopting the Housing Production Strategy Report or amended Report;¶
 - (b) The text of the Housing Production Strategy Report as provided in OAR 660-008-0050 and any amendments to the most recent Report submitted under section (1);¶
 - (c) A brief narrative summary of the Housing Production Strategy Report; and¶
 - (d) The information that the city reviewed and considered under section (6).¶
- (6) The Department shall review the accuracy and sufficiency of the Housing Production Strategy Report based upon the following:¶
 - (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;¶
 - (d) Recent housing development;¶
 - (e) Recent adoption of a Housing Production Strategy or implementation of actions therein;¶
 - (f) The city's response to address the housing needs of those experiencing homelessness;¶
 - (g) Increased access to housing opportunity including the elimination of barriers to fair and equitable housing options;¶
 - (h) Other attributes that the Commission considers relevant; and¶
 - (i) Recent or frequent failure to address the metrics listed in the criteria in this subsection.¶
- (7) The Department shall, within 120 days after receiving the submission under section (1):¶
 - (a) Approve the Housing Production Strategy Report;¶
 - (b) Approve the Housing Production Strategy Report, subject to further review and actions recommended by the Department based on its review under section (6); or¶
 - (c) Remand the Housing Production Strategy Report for further modification as identified by the Department.¶
- (8) A determination by the Department under section (7) is not a land use decision and is final and not subject to appeal.¶
- (9) The Department will maintain an annual summary of proposed Housing Production Strategies included in Reports submitted under section (1) and reports submitted under OAR 660-008-0060.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.290, ORS 197.291, ORS 197.293, ORS 197.296, ORS 197.303

REPEAL: 660-008-0060

RULE SUMMARY: This rule describes the process and components of the required Housing Production Strategy implementation report.

CHANGES TO RULE:

~~660-008-0060~~

~~Reporting on Housing Production Strategy Implementation~~

~~(1) Cities required to adopt a Housing Production Strategy Report under ORS 197.290(1), must submit a narrative report to the Department for review and comment based on the following schedule:¶¶~~

~~(a) For cities that are within a metropolitan service district boundary, no later than December 31st three years after the city adopted a Housing Production Strategy Report; or¶¶~~

~~(b) For cities that are not within a metropolitan service district boundary, no later than December 31st four years after the city adopted a Housing Production Strategy Report.¶¶~~

~~(2) The narrative report a city submits under section (1) must include the following:¶¶~~

~~(a) A summary of the actions already taken by the city to implement the Strategies to Meet Future Housing Need adopted in the city's most recent Housing Production Strategy Report. If the city has not implemented Strategies to Meet Future Housing Need on the schedule adopted in their most recent Housing Production Strategy Report, the city must provide an explanation of the circumstances or factors that posed a barrier to implementation and a plan for addressing the identified need that the strategy addressed;¶¶~~

~~(b) A reflection of the relative efficacy of implemented Strategies to Meet Future Housing Need adopted in the city's most recent Housing Production Strategy Report; and¶¶~~

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

~~(3) Upon submittal of the narrative report developed under section (1), the Department will review the report for consistency with the Housing Production Strategy Report approved under criteria provided in OAR 660-008-0055(6). The Department may also consider reporting under ORS 456.586(4) as part of this review.¶¶~~

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

~~(5) Should the Department find the narrative report submitted under section (1) does not substantially comply with the criteria in OAR 660-008-0055(3), the Department may take action identified in OAR 660-008-0070.~~

~~Statutory/Other Authority: ORS 197.040~~

~~Statutes/Other Implemented: ORS 197.290, ORS 197.291, ORS 197.293, ORS 197.296, ORS 197.303~~

REPEAL: 660-008-0065

RULE SUMMARY: This rule delineates the accountability actions the Department must take if a city is delinquent in submitting a Housing Capacity Analysis or Housing Production Strategy report.

CHANGES TO RULE:

~~660-008-0065~~

~~Non-Compliance in Adoption of Housing Capacity Analysis or Housing Production Strategy Report~~

~~The Department will review a city's Housing Capacity Analysis and a city's Housing Production Strategy Report for compliance with the applicable portions ORS 197.296 and this division. If the city does not sufficiently meet the criteria provided in ORS 197.296 or this division, the Department may engage with the city in one or more of the following actions:¶¶~~

~~(1) If a city determines that it will be unable to adopt a Housing Capacity Analysis or Housing Production Strategy Report by the prescribed deadline, the city must notify the Department of the expected delinquency at least 60 days before the applicable deadline for a Housing Capacity Analysis or Housing Production Strategy Report. In response, the Department and the city may agree to remediation either through enhanced review of documents, directed technical assistance to overcome the impediment as available, or other similar measures, and include timelines for completion.¶¶~~

~~(2) If the city has not submitted a Housing Production Strategy Report for Department review by the deadline provided in OAR 660-008-0050 and has not notified the Department of an expected delinquency, the Department may work with the city and may seek mitigation of the delinquency through an Intergovernmental Agreement outlining specific compliance actions, timeline of deliverables, and subsequent enforcement actions. The Intergovernmental Agreement may include directed technical assistance or financial resources.¶¶~~

~~(3) If the Department and the city have entered into an Intergovernmental Agreement under section (2) and the city, at the discretion of the Department, has not sufficiently mitigated the identified delinquency, the Department may remove the city from consideration of technical assistance or other financial resource awards.¶¶~~

~~(4) If the city does not adopt a Housing Capacity Analysis or Housing Production Strategy Report as provided in this division, does not enter into an Intergovernmental Agreement with the Department to remedy the deficiency, or does not comply with the terms of an Intergovernmental Agreement to remedy the deficiency, the Department may request the Commission to act under ORS 197.319 to 197.335 to require the city to comply with ORS 197.295 to 197.314, this division, or statewide land use planning goals related to housing or urbanization.~~

~~Statutory/Other Authority: ORS 197.040~~

~~Statutes/Other Implemented: ORS 197.290, ORS 197.291, ORS 197.293, ORS 197.296, ORS 197.303~~

REPEAL: 660-008-0070

RULE SUMMARY: This rule delineates the accountability actions the Department must take if a city fails to undertake actions as outlined in the Housing Production Strategy report.

CHANGES TO RULE:

~~660-008-0070~~

~~Non-Compliance in Adoption and Implementation of Strategies to Meet Future Housing Need Identified in a Housing Production Strategy Report~~

~~The Department shall review a city's Housing Production Strategy Report and narrative reports pursuant to OAR 660-008-0060 based upon criteria provided in OAR 660-008-0055. If there is a delinquency in the adoption or implementation of an identified strategy, the Department may engage with the city in one or more of the following actions:¶¶~~

~~(1) If circumstances impede a city's ability to implement one or more Strategies to Meet Future Housing Need in coherence with the timeline adopted in the city's Housing Production Strategy Report, the city must notify the Department of the expected delinquency within 90 days of the end of the timeline to implement the specific Strategy to Meet Future Housing Need adopted in the city's Housing Production Strategy Report. The notice must identify specific actions, or a combination of actions, that the city is currently taking, or will take, to address the delinquency. This may include, but is not required to include, amendments to the adopted Housing Production Strategy Report such that the city identifies a different action, or combination of actions, to address the specific housing need. The Department and the city may agree to remediation either through enhanced review of the documents, directed technical assistance to overcome the impediment as available, or other similar agreement.¶¶~~

~~(2) If a city does not take sufficient action to mitigate the identified delinquency, either through a failure to provide notice to the Department as provided in section (1) or through a failure to implement the specific actions, or combination of actions, by the timeline identified in the notice to the Department pursuant to section (1), the Department shall work with the city and may seek mitigation of the issues through an Intergovernmental Agreement outlining specific compliance actions, a timeline of deliverables, and subsequent enforcement actions. The Intergovernmental Agreement may or may not include directed technical assistance or financial resources.¶¶~~

~~(3) If the Department and the city have entered into an Intergovernmental Agreement under section (2) and the city, at the discretion of the Department, has not sufficiently mitigated the identified delinquency, the Department may remove the city from consideration of technical assistance or financial resource awards.¶¶~~

~~(4) If the Department finds that the city consistently or routinely does not satisfy the terms of Intergovernmental Agreements and the criteria provided in OAR 660-008-0055 or this section, the Department may petition the Commission to act under ORS 197.319 to 197.335 to require the city to comply with ORS 197.295 to 197.314, this division, or statewide land use planning goals related to housing or urbanization.~~

~~Statutory/Other Authority: ORS 197.040~~

~~Statutes/Other Implemented: ORS 197.290, ORS 197.291, ORS 197.293, ORS 197.296, ORS 197.303~~

RULE SUMMARY: The Contextualized Housing Need is an analysis that localizes and specifies the housing attributes that a City needs for the purposes of its Goal 10: Housing planning work, spanning both the Housing Capacity Analysis and the Housing Production Strategy. It consists of a localized analysis of quantitative and qualitative needs that encompass housing types, characteristics, and locations with particular focus on fair housing issues, protected classes, and other priority populations named in statute or experiencing inequitable housing outcomes to Affirmatively Further Fair Housing.

CHANGES TO RULE:

660-008-0075

Contextualized Housing Need

The Contextualized Housing Need is an analysis relating a city's Allocated Housing Need and Housing Production Target, as provided in ORS 184.451, to local qualitative and quantitative information. This analysis uses current and future housing needs, along with population and market trends, to evaluate Fair Housing Issues in the city to Affirmatively Further Fair Housing. A city must work interdepartmentally to the extent possible in developing and implementing its engagement work for the Contextualized Housing Need, including but not limited to collaboration across the planning, permitting, and community development departments. The analysis must include consideration of Federal Fair Housing Act protected classes, all state protected classes, all locally protected classes, named communities in Needed Housing (ORS 197A.018), Tribal Communities and any community experiencing disparate housing outcomes in a city. The output of the analysis is a determination of the needed types, characteristics, and locations of housing that a city must plan for in its six or eight-year housing production cycle that mitigate and address the identified fair housing issues informed by the Fair Housing Issue Area Analysis. Subsequent Housing Capacity Analyses and any land efficiency measures taken, as well as the Housing Production Strategy and all actions therein, must respond to the identified needed housing types and locations, and characteristics as applicable, as determined by this Contextualized Housing Need. To the extent it exists, a city may utilize information, data, and analyses from other recent housing planning efforts within the city including, but not limited to, Consolidated Plans for any of HUD's Community Planning and Development formula grant programs including Community Development Block Grant Entitlement Communities.¶

(1) At a minimum, the Contextualized Housing Need must include:¶

(a) An inventory and evaluation of local conditions related to housing the city will use in and to inform the Fair Housing Issue Area Analysis required in subsection (b) and must include review of:¶

(A) The state-provided Housing Production Dashboard as described in ORS 456.601;¶

(B) The state-provided Equity Indicators as described in ORS 456.603;¶

(C) As available and applicable, the following data sources regarding households experiencing homelessness:¶

(i) An estimate of regional housing need for people experiencing homelessness provided by the state or regional entity;¶

(ii) The applicable Housing and Urban Development Point-in-Time count conducted by the Continuum of Care that the city is located within;¶

(iii) The applicable Housing and Urban Development Annual Homelessness Assessment Report;¶

(iv) The applicable McKinney-Vento Homeless Student Data for all school districts that overlap with the City boundary;¶

(v) Data collected by local Coordinated Care Organizations;¶

(vi) Data collected by community action agencies;¶

(vii) The capacity of existing emergency shelters;¶

(viii) Rental and homeowner vacancy rates;¶

(ix) Change in gross or net property values or rent over time;¶

(x) Qualitative data that illustrate specific needs of people experiencing homelessness; and¶

(xi) Other local houseless population datasets¶

(D) Locally completed Community Engagement as provided in section (2);¶

(E) The actions already adopted by the city to promote the development of Needed Housing including those outlined in the city's most recently completed survey to meet the requirements of ORS 197A.110 and a reflection on the efficacy of each implemented action;¶

(F) Market conditions affecting the provision of Needed Housing;¶

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

(H) Past discriminatory actions or practices related to land and housing access including mapping of the geographies impacted by these actions and their relationship to current patterns of racial and ethnic integration

and segregation, as well as affluence and poverty as illustrated in the Equity Indicators defined in ORS 456.602.¶
(i) Once initially completed, a city may use the mapped past discriminatory actions portion of paragraph (H) for a total of three Housing Capacity Analysis and Housing Production Strategy cycles before the city must update and renew it.¶

(ii) Each Housing Production Strategy cycle, a city must conduct a renewed comparison of the mapped past discriminatory actions to current patterns of racial and ethnic integration and segregation as well as affluence and poverty.¶

(iii) The city shall title this item to include reference to the year it was completed; and¶

(l) As available and applicable, the following data points:¶

(i) Trends that may negatively impact preservation of affordable naturally occurring market-rate units, such as redevelopment rates and changes in market conditions; and¶

(ii) Data and analyses in the State of Oregon Analysis of Impediments to Fair Housing Choice.¶

(b) A Fair Housing Issue Area Analysis that builds on the inventory and evaluation of local conditions directed in subsection (a) and concludes in identifying and evaluating fair housing issues in the community. This analysis must evaluate fair housing choice across the following issue areas providing fair access to and equitable outcomes for all Federal Fair Housing Act protected classes, all state protected classes, all locally protected classes, named communities in Needed Housing (ORS 197A.018), Tribal Communities, and any community experiencing disparate housing in a City:¶

(A) Fair Housing tenure and wealth building choice;¶

(B) Fair Housing choice for people experiencing homelessness;¶

(C) Fair Housing choice for people with disabilities;¶

(D) Access to community assets and mitigation of exposure to harms;¶

(E) Housing stability, anti-displacement and displacement mitigation;¶

(F) Fair Housing choice for people of all races and ethnicities by addressing and disrupting patterns of segregation and concentration, and their correlation with affluence and poverty; and¶

(G) Any additional issue areas the city has reason to believe may be of concern in the community or are required to address, including cities subject to OAR 660-012-0315(1) and jurisdictions within Metro with Region 2040 centers, as defined in OAR 660-012-0005(24).¶

(c) If a city concludes that there are no fair housing issues in one or more of the identified fair housing issue areas listed in subsection (b), the city must provide a detailed justification for this conclusion. This justification must include:¶

(A) A comprehensive analysis from subsection (b) that demonstrates the absence of disparate housing outcomes or barriers in the issue area(s) and the presence of housing choice and stability for all community members, and¶

(B) A plan for ongoing monitoring to ensure that fair housing issues do not emerge in the future, including a commitment to re-evaluate the issue area(s) in subsequent Contextualized Housing Need analyses and Housing Production Strategy adoptions.¶

(d) Description and identification of the housing types, characteristics, and locations needed to,¶

(A) Redress, remedy, or mitigate the Fair Housing Issues identified in subsection (b), and¶

(B) Meet the city's Housing Production Target while Affirmatively Furthering Fair Housing.¶

(e) For cities subject to OAR 660-012-0310, the number of housing units needed for the city to make proportionate progress in meeting the goal of accommodating 30 percent of all housing in Climate Friendly Areas.¶

(2) The Contextualized Housing Need must be informed by local community engagement feedback. A city must solicit direct feedback regarding both its analysis of Fair Housing Issue Areas and its determinations of the city's needed housing types, characteristics, and locations. A city may refer to the department's Equitable Engagement Toolkit to employ best practices regarding equitable engagement. The engagement program must prioritize and actively seek to center Federal Fair Housing Act protected classes, all state protected classes, all locally protected classes, named communities in Needed Housing (ORS 197A.018), Tribal Communities and any community experiencing disparate housing outcomes in the city, to ensure these perspectives are meaningfully incorporated. To the extent it exists, a city must utilize feedback from other housing-related engagement within the city including, but not limited to, Consolidated Plans for any of HUD's Community Planning and Development formula grant programs including Community Development Block Grant Entitlement Communities, Transportation System Plan updates under OAR 660-012-0120 through 660-012-0135, and public engagement for Severely Rent Burdened Households as described in OAR 813-112-0010. If the city has comprehensive and recent housing-oriented engagement efforts that sufficiently inform the Contextualized Housing Need and the city finds that additional engagement would not align with best practices in the Equitable Engagement Toolkit, the city may rely entirely on existing engagement feedback and must include an explanation for this determination in the engagement summary. The engagement summary must include:¶

(a) A list and description of the types of interested parties and communities who comprise Community Members

of Needed Housing and Producers of Needed Housing, especially with regard to Federal Fair Housing Act protected classes, all state protected classes, all locally protected classes, named communities in Needed Housing (ORS 197A.018), Tribal Communities and any community experiencing disparate housing outcomes in a city;¶

(b) A summary of how the city engaged interested parties and communities identified in subsection (a), including why they were engaged, engagement methods used, a list of each engagement effort or event being used to develop the Contextualized Housing Need, and the interested parties or communities identified in subsection (a) who the city believes may still be underrepresented in this process;¶

(c) A summary of feedback received from each engagement effort or event, as well as a description of the major themes attributed to the likely impacted interested parties and communities identified in subsection (a). A city must determine whether each major theme either influenced the identification of Fair Housing Issues and determination of the needed housing types, characteristics, and locations that are needed in the city or not. If a theme influenced these determinations, the specific Fair Housing Issues or needed housing types, characteristics, and locations identified as a result of the feedback must be documented. If a theme did not influence the identification or determination, the city must provide a rationale explaining why the feedback was not incorporated.¶

(d) An evaluation of how to improve engagement practices for future housing engagement efforts conducted by the city, including but not limited to improvements in Affirmatively Furthering Fair Housing through future engagement efforts.¶

(e) for Cities subject to OAR 660-012-310, the number of housing units needed for the city to make proportionate progress in meeting the goal of accommodating 30% of all housing in Climate Friendly Areas.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 184.451, ORS 197.286-197.314, ORS 197A.015-197A.103

ADOPT: 660-008-0080

RULE SUMMARY: This rule describes the process for the review and adoption of the Contextualized Housing Need.

CHANGES TO RULE:

660-008-0080

Review of Contextualized Housing Need

(1) The standard process for completing the Contextualized Housing Need includes:¶

(a) Submission of the Contextualized Housing Need as a component of the adoption of the Housing Capacity Analysis as provided in OAR 660-008-0045(3), and¶

(b) The department shall review the sufficiency of the Contextualized Housing Need based upon requirements provided in OAR 660-008-0075 at the time the city adopts its Housing Capacity Analysis as provided in OAR 660-008-0045(3).¶

(2) A city may opt into an alternate process for completing the Contextualized Housing Need through a segmented Housing Production Strategy review under OAR 660-008-0210 prior to the adoption of a Housing Capacity Analysis and Housing Production Strategy wherein.¶

(a) The city shall notify the department of the selection of the segmented Housing Production Strategy review, and¶

(b) Neither the department's decision nor the city's adoption of the Contextualized Housing Need under this section is a land use decision.¶

(3) The Contextualized Housing Need may be identified as a work task in a work program and reviewed per the sequential Review of Urban Growth Boundary Amendment Components described in OAR 660-025-0185.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.012, ORS 197.286-197.314, ORS 197A.015-197A.103, ORS 197.626

ADOPT: 660-008-0110

RULE SUMMARY: The Allocation of Buildable Land is an analysis that designates land on the comprehensive plan map to satisfy housing needs by type and density range as determined in the housing needs projection.

CHANGES TO RULE:

660-008-0110

Allocation of Buildable Land

(1) The mix and density of needed housing is determined in the housing needs projection. Sufficient buildable land shall be designated on the comprehensive plan map to satisfy housing needs by type and density range as determined in the housing needs projection. The local buildable lands inventory must document the amount of buildable land in each residential plan designation.

(2) For purposes of preparing Housing Capacity Analyses as provided in OAR 660-008-0045, the following provisions apply to local governments that are subject to OAR 660-012-0310(2):

(a) Following the initial designation of climate-friendly areas as required in OAR 660-012-0315, local governments shall maintain climate-friendly area zones with sufficient zoned residential building capacity to contain at least 30 percent of current and projected housing needs. However, the local government shall determine housing capacity within the climate-friendly area for the purpose of meeting identified housing needs as required by Goal 10 and this division in a manner consistent with former ORS 197.296(5).

(b) The local government shall calculate the zoned residential building capacity within climate-friendly areas consistent with the provisions of OAR 660-012-0315(2), or utilizing an alternative methodology as provided in OAR 660-012-0320(10). The local government shall include demonstration of compliance with this requirement in each subsequent Housing Capacity Analysis.

(c) The local government shall establish land use requirements in climate-friendly areas as provided in OAR 660-012-0320 for any newly designated climate-friendly area concurrent with or prior to the adoption of a Housing Capacity Analysis.

(3) Beginning June 30, 2027:

(a) A local government subject to OAR 660-012-0310(2) that has identified a need to expand its urban growth boundary to accommodate an identified residential land need shall designate and zone additional climate-friendly area as provided in OAR 660-012-0315 concurrent with expansion of the urban growth boundary.

(b) A local government shall designate and zone climate-friendly area of sufficient size to accommodate the number of housing units equivalent to one-half of the number of additional housing units that cannot reasonably be accommodated within the current urban growth boundary.

(c) The local government shall calculate the climate-friendly area needed based on zoned residential building capacity as provided in OAR 660-012-0315(2), or utilizing an alternative methodology as provided in OAR 660-012-0320(10), while the local government shall determine housing capacity within the climate-friendly area for the purpose of meeting identified housing needs as required by Goal 10 and this division in a manner consistent with former ORS 197.296(5). Identified housing needs that would otherwise necessitate an urban growth boundary expansion shall only be accommodated in climate-friendly areas to the extent that the production of needed housing types within the climate-friendly areas may be anticipated consistent with former ORS 197.296(5).

(d) The local government may choose to designate a portion of the newly expanded urban growth boundary area as climate-friendly area if the area qualifies for designation as provided in OAR 660-012-0310(2), or may choose to designate additional climate-friendly area in other locations within the urban growth boundary that qualify for designation.

(e) The local government may accommodate additional climate-friendly areas within one or more locations within the urban growth boundary. The designation and zoning of additional climate friendly area shall comply with all applicable requirements for climate-friendly areas as provided in OAR 660-012-0310 through OAR 660-012-0325.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.296 - 197.314, ORS 197.475 - 197.490, ORS 197.012, ORS 197.286

ADOPT: 660-008-0120

RULE SUMMARY: Plan designations that allow or require residential uses shall be assigned to all buildable land. The plan designations assigned to buildable land shall be specific so as to accommodate the varying housing types and densities identified in the local housing needs projection.

CHANGES TO RULE:

660-008-0120

Specific Plan Designations Required

(1) Plan designations that allow or require residential uses shall be assigned to all buildable land. Such designations may allow nonresidential uses as well as residential uses. Such designations may be considered to be "residential plan designations" for the purposes of this division. The plan designations assigned to buildable land shall be specific so as to accommodate the varying housing types and densities identified in the local housing needs projection.

(2) A local government may defer the assignment of specific residential plan designations only when the following conditions have been met:

(a) Uncertainties concerning the funding, location and timing of public facilities have been identified in the local comprehensive plan;

(b) The decision not to assign specific residential plan designations is specifically related to identified public facilities constraints and is so justified in the plan; and

(c) The plan includes a time-specific strategy for resolution of identified public facilities uncertainties and a policy commitment to assign specific residential plan designations when identified public facilities uncertainties are resolved.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.295 - 197.314, ORS 197.475 - 197.490

ADOPT: 660-008-0125

RULE SUMMARY: A local government may defer rezoning of land within an urban growth boundary to maximum planned residential density provided that the process for future rezoning is reasonably justified.

CHANGES TO RULE:

660-008-0125

The Rezoning Process

A local government may defer rezoning of land within an urban growth boundary to maximum planned residential density provided that the process for future rezoning is reasonably justified. If such is the case, then:

(1) The plan shall contain a justification for the rezoning process and policies which explain how this process will be used to provide for needed housing.

(2) Standards and procedures governing the process for future rezoning shall be based on the rezoning justification and policy statement, and must be clear and objective and meet other requirements in OAR 660-008-0015.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.295 - 197.314, ORS 197.475 - 197.490

RULE SUMMARY: The Housing Production Strategy is a plan of action to address needed housing as identified in the Contextualized Housing Need. This rule describes the required elements and structure of the Housing Production Strategy, including a summary of community engagement and commitments to specific actions.

CHANGES TO RULE:

660-008-0200

Housing Production Strategy Structure

As provided in ORS 197A.100, a city must develop and adopt a Housing Production Strategy. The Housing Production Strategy is a comprehensive city-wide action plan encompassing all domains in a city's control to promote housing production, affordability, and choice. A city must work interdepartmentally to the extent possible in developing and implementing the Housing Production Strategy and the component engagement work, including but not limited to collaboration across the planning, permitting, and community development departments. The Housing Production Strategy must include a list of specific actions that ensure the opportunity for and promote the provision of Needed Housing to meet Housing Production Targets for the city's six or eight-year HPS cycle. The provision of Needed Housing includes its development, preservation, adaptation, and maintenance under the principles of Affirmatively Furthering Fair Housing. At a minimum, the Housing Production Strategy must include the Contextualized Housing Need as directed by OAR 660-008-0075 and the following components:¶

(1) Engagement - In addition to, or as part of, the engagement undertaken for the Contextualized Housing Need under OAR 660-008-0075(2), a Housing Production Strategy must include engagement specific to developing the Housing Production Strategy and in particular the selection of the actions therein. A city must solicit feedback from Community Members of Needed Housing and Producers of Needed Housing. The engagement program must prioritize and actively seek to center Federal Fair Housing Act protected classes, all state protected classes, all locally protected classes, named communities in Needed Housing (ORS 197A.018), Tribal Communities and any community experiencing disparate housing outcomes in the city, to ensure these perspectives are meaningfully incorporated. A city must also utilize engagement feedback from the Contextualized Housing Need related to identifying housing needs to inform action selection. A city may refer to the department's Equitable Engagement Toolkit to employ best practices regarding equitable engagement. To the extent it exists, a city may utilize feedback from other housing-related engagement within the city including, but not limited to, Consolidated Plans for any of HUD's Community Planning and Development formula grant programs including, but not limited to, Community Development Block Grant Entitlement Communities, Transportation System Plan updates under OAR 660-012-0120 through OAR 660-012-0135, and public engagement for Severely Rent Burdened Households as described in OAR 813-112-0010. The engagement summary must include:¶

(a) Reference to the list and description from OAR 660-008-0075(2)(a):¶

(b) A summary of how the city engaged parties and communities identified in subsection (a), including why they were engaged, engagement methods used, a list of each engagement effort or event being used to select the Actions in the Housing Production Strategy, and the interested parties or communities identified in subsection (a) who the city believes may still be underrepresented in this process:¶

(c) A summary of feedback received from each engagement effort or event, as well as a description of the major themes attributed to the likely impacted interested parties and communities identified in subsection (a). For each major theme, it must be noted to have either influenced the selection of actions in the Housing Production Strategy or not. If a theme influenced the selection of action or actions as a result of the feedback, it must be documented. If a theme did not influence the selection of action or actions, the city must provide a rationale explaining why the feedback was not incorporated.¶

(d) An evaluation of how to improve engagement practices for future housing engagement efforts conducted by the city, including but not limited to improvements in Affirmatively Furthering Fair Housing through future engagement efforts.¶

(2) Actions to Meet Current and Future Housing Need - A Housing Production Strategy must commit to a list of specific actions to support the production of Needed Housing in order to meet the city's Housing Production Target with net new units, including the preservation, rehabilitation, and adaptation of existing Needed Housing where appropriate, and to simultaneously Affirmatively Further Fair Housing in the existing and new housing stock. The Housing Production Strategy must demonstrate that the actions therein collectively meet the six- or eight-year housing need established in its Housing Production Target, by affordability bracket, and in the city's identified needed housing types, characteristics, and locations as a result of the Contextualized Housing Need as provided in OAR 660-008-0075. A Housing Production Strategy may identify actions including, but not limited to, those described in ORS 197A.100(3), actions listed in the Housing Production Strategy Guidance for Cities

published by the commission under Attachment B. For each identified action, the Housing Production Strategy must include:

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

(b) A title and description of the alternate action chosen, if any;

(c) The identification number from the Housing Production Strategy Guidance for Cities. For any action not listed in the Housing Production Strategy Guidance for Cities under Attachment B, the city must provide an explanation as to how the action will address the identified housing needs and Fair Housing Issues as effectively as or more effectively than relevant actions from the Housing Production Strategy Guidance for Cities under Attachment B.;

(d) An adoption year for the action, if applicable;

(e) A year for when the action will be implemented;

(A) Cities must consider the sequencing of actions when establishing implementation timelines. Actions shall be scheduled to maximize benefits and minimize burdens, ensuring that their timing aligns with and complements other actions for the most beneficial overall impact.;

(B) Sequencing decisions shall consider in particular the benefits and burdens of Federal Fair Housing Act protected classes, all state protected classes, all locally protected classes, named communities in Needed Housing (ORS 197A.018), Tribal Communities and any community experiencing disparate housing outcomes in a city.;

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

(g) The action's expected magnitude of impact on the development of Needed Housing over the six- or eight-year Housing Production Target horizon;

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

(i) The tenure and wealth-building opportunities expected to be available from the produced housing;

(j) A description of critical steps that all relevant staff and departments of the city and other interested parties and partners must take to implement the action;

(k) A description of how the city will assess and track the results of the action;

(l) The housing need met in terms of;

(A) Any Fair Housing Issues the action is expected to mitigate or resolve;

(B) The needed housing types, characteristics, locations the city expects the actions to produce; and

(C) The community feedback the action is responsive to;

(m) An analysis of the income and demographic populations that the city anticipates to receive benefit or burden from the action, including but not limited to;

(A) Low-income communities;

(B) Communities of color; and

(C) People with disabilities.;

(n) The names of any complementary actions in the Housing Production Strategy or other implementation details specifically intended to pair with this action in order to strengthen needed benefits or mitigate burdens.;

(3) Delinquent Actions - The city must include any actions from the most recently adopted or amended Housing Production Strategy which were not completed during the previous Housing Production Strategy cycle in the current Housing Production Strategy along with an implementation year prior to the city's Midpoint Report due date. Delinquent actions from the previous Housing Production Strategy cycle are ineligible for requests for timeline extensions and replacement actions in the Midpoint Report and review.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.012, ORS 197.286-197.314, ORS 197A.015-197A.103

ADOPT: 660-008-0210

RULE SUMMARY: The Department will develop adoption ready actions for use in guidance, safe harbors, or minimum standards in 2025.

CHANGES TO RULE:

660-008-0210

Adoption Ready Actions

The department must adopt Adoption Ready Actions in 2025 for use in guidance, safe harbors, or minimum standards.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.025

ADOPT: 660-008-0215

RULE SUMMARY: This rule outlines the requirements and procedures cities must follow when submitting their adopted or amended Housing Production Strategy to the department.

CHANGES TO RULE:

660-008-0215

Review of Housing Production Strategies

(1) No later than 20 days after a city's adoption or amendment of a Housing Production Strategy under ORS 197A.100, a city must submit the adopted or amended Housing Production Strategy to the department.

(2) On the same day the city submits notice of the adopted or amended Housing Production Strategy to the department, the city must provide a notice to persons who participated in the proceedings that led to the adoption of the Housing Production Strategy and requested notice in writing.

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

(4) Notices given under sections (2) and (3) must state:

(a) How and where materials described under section (5) may be freely obtained;

(b) That comments on the Housing Production Strategy may be submitted to the department within 45 days after the department has received the submission under section (1); and

(c) That there is no further right of appeal of the department's decision under section (7).

(5) The submission under section (1) must include copies of:

(a) The signed decision adopting or amending the Housing Production Strategy;

(b) The text of the Housing Production Strategy as provided in OAR 660-008-0200, and any amendments to the most recent Housing Production Strategy submitted under section (1); and

(c) A brief narrative summary of the Housing Production Strategy.

(6) The department shall review the sufficiency of the Housing Production Strategy based upon the following:

(a) Requirements provided in OAR 660-008-0075:0210, and

(b) Other attributes that the commission considers relevant.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.012, ORS 197.286-197.314, ORS 197A.015-197A.103

ADOPT: 660-008-0230

RULE SUMMARY: The purpose of the midpoint report and review is for both the City and the Department to assess the progress and implementation of the actions in the Housing Production Strategy according to the adoption and implementation timeline of each action. This rule directs the midpoint reporting requirements and Department review regarding the Housing Production Strategy's implementation.

CHANGES TO RULE:

660-008-0230

Midpoint Reporting on Housing Production Strategy Implementation

(1) Cities required to adopt a Housing Production Strategy under ORS 197A.100(1), must submit a Midpoint Report to the department for review and comment based on the following schedule:¶

(a) For cities that are within a metropolitan service district boundary, no later than December 31st three years after the city adopted a Housing Production Strategy; or¶

(b) For cities that are not within a metropolitan service district boundary, no later than December 31st four years after the city adopted a Housing Production Strategy.¶

(2) The Midpoint Report a city submits under section (1) must include the following:¶

(a) A summary of the actions already taken by the city to implement the Actions to Meet Current and Future Housing Need adopted in the city's most recently adopted or amended Housing Production Strategy and actions which were scheduled for implementation after the last Midpoint Report from the previous Housing Production Strategy cycle.¶

(b) A reflection of the efficacy of implemented actions in producing net new needed housing types, characteristics, and locations and in remedying or mitigating the Fair Housing Issue/s the action was intended to respond to. This reflection must include a review of:¶

(A) The Housing Production Dashboard.¶

(B) The Housing Equity Indicators, and¶

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

(3) Within ten days of receipt of the submission under section (1), the department must provide notice to persons as provided in ORS 197.615(3).¶

(4) If the city has not implemented an Action to Meet Current and Future Housing Need on the schedule most recently adopted or amended for the current Housing Production Strategy cycle or for actions which were scheduled for implementation after the last Midpoint Report from the previous Housing Production Strategy cycle, the Midpoint Report may include an explanation of the circumstances or factors that posed a barrier to implementation and a requested implementation timeline extension for good cause that includes:¶

(a) A revised implementation date which does not extend beyond the city's subsequent Housing Production Strategy deadline under OAR 660-008-0045(6); or¶

(b) A requested replacement action or actions that includes:¶

(A) A revised implementation date which does not extend beyond the city's subsequent Housing Production Strategy deadline under OAR 660-008-0045(6);¶

(B) A demonstration that the replacement action addresses the same identified housing need as the replaced action.¶

(C) A demonstration that the anticipated magnitude of impact of the replacement action or actions is equivalent or greater than the anticipated magnitude of the replaced action.¶

(D) A resolution of support for this replacement from the governing body, and¶

(E) Notice to persons who participated in the proceedings that led to the adoption of the Housing Production Strategy and requested notice in writing.¶

(5) Upon submittal of the Midpoint Report developed under section (1), the department will review the report for consistency with the Housing Production Strategy approved under criteria provided in OAR 660-008-0210(6). The department will also evaluate requests for implementation timeline extensions and replacement actions as applicable.¶

(6) The department will issue Midpoint review letters by July 1 of the year following the Midpoint Report deadline. Should the department find the Midpoint Report submitted under section (1) does not substantially comply with the criteria in OAR 660-008-0210(6) or should the department reject a request under section (4), the department may take action identified in OAR 660-008-0315.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.012, ORS 197.286-197.314, ORS 197.615, ORS 197A.015-197A.103

ADOPT: 660-008-0240

RULE SUMMARY: This rule describes the obligation of Metro and other regional governments or bodies may to develop Housing Coordination Strategies per ORS 197A.365.

CHANGES TO RULE:

660-008-0240

Housing Coordination Strategy

Metro must, and other regional governments or bodies may, develop Housing Coordination Strategies as provided in ORS 197A.365.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.274, ORS 197.286-197.314, ORS 197A.300-197A.372

ADOPT: 660-008-0300

RULE SUMMARY: In addition to the purpose statement described in OAR 660-008-0000, OAR 660-008-0300 to OAR 660-008-0335 are intended to operationalize the housing acceleration program under ORS 197A.130 and provide a clear and consistent framework by which cities comply with Goal 10 and take action to address identified barriers to housing production, affordability, and choice.

CHANGES TO RULE:

660-008-0300

Housing Acceleration Program Purpose

In addition to the purpose statement described in OAR 660-008-0000, OAR 660-008-0300 to OAR 660-008-0335 are intended to operationalize the Housing Acceleration program under ORS 197A.130 and provide a clear and consistent framework by which cities comply with Goal 10 and take action to address identified barriers to housing production, affordability, and choice.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.130

ADOPT: 660-008-0310

RULE SUMMARY: DLCD must refer cities to the Housing Acceleration program that fail to adopt an HPS by the statutory deadline. Rule includes actions the department may take to remediate delinquency prior to referral, and process by which a city may be referred.

CHANGES TO RULE:

660-008-0310

Referral for Non-Compliance in Adoption of Housing Capacity Analysis and Housing Production Strategy

A city is required to adopt a Housing Capacity Analysis and Housing Production Strategy under OAR 660-008-0045. The department is required to annually refer to the Housing Acceleration program each city that has failed to adopt a Housing Production Strategy under ORS 197A.130(3)(b). To minimize and remedy delinquency in completing these requirements by the prescribed deadlines, the department must refer a city for non-compliance in the adoption of a Housing Capacity Analysis or Housing Production Strategy via the following provisions:¶

(1) A city that determines it will be unable to adopt a Housing Capacity Analysis, Housing Production Strategy Report, or Midpoint Report by the prescribed deadline may request that the department provide a time extension for good cause. The city must notify the department of the expected delinquency at least 60 days before the applicable deadline for a Housing Capacity Analysis or Housing Production Strategy. In response, the department may take any of the following actions:¶

(a) For a Housing Capacity Analysis, provide written authorization for the city to adopt concurrently with a Housing Production Strategy by the deadline provided in ORS 197A.100(1);¶

(b) Recommend an amended deadline to the commission for a Housing Capacity Analysis or Housing Production Strategy under OAR 660-008-0045;¶

(c) Review components of a Housing Capacity Analysis, response to an identified deficiency, or Housing Production Strategy under OAR 660-025-0185; or¶

(d) Within 90 days, enter into a voluntary agreement to remedy the delinquency outlining specific actions, timelines, and resources necessary to adopt a Housing Capacity Analysis or Housing Production Strategy.¶

(2) The department must refer a city that has not adopted a Housing Capacity Analysis or Housing Production Strategy by the prescribed deadline, received a time extension for good cause under section (1), or fulfilled the actions and deadlines of a work plan or agreement under section (1) to the Housing Acceleration program.¶

(3) For cities referred to the Housing Acceleration program under subsection (2), the Department must conduct an audit under OAR 660-008-0325 and enter into a housing acceleration agreement under OAR 660-008-0330 focused only on the local barriers to the adoption of a Housing Production Strategy and all supporting documents.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.130, ORS 197A.100

ADOPT: 660-008-0315

RULE SUMMARY: DLCD must refer cities to the Housing Acceleration program that fail to undertake an HPS Action by the adopted deadline. Rule includes actions the department may take to remediate delinquency prior to referral, and process by which a city may be referred.

CHANGES TO RULE:

660-008-0315

Referral for Non-Compliance in Undertaking Actions in a Housing Production Strategy

A city is required to undertake actions in a Housing Production Strategy by the deadline under ORS 197A.100 (4). The department is required to annually refer each city to the Housing Acceleration program at its Midpoint that has not taken actions adopted in its Housing Production Strategy under ORS 197A.130(3)(c).¶

(1) The department will not refer a city to the Housing Acceleration program under this provision if the city has received either or both:¶

(a) An extension for good cause under OAR 660-008-0215(4)(a)(A);¶

(b) Department approval to undertake a replacement action or actions in the Housing Production Strategy under OAR 660-008-0215(4)(a)(B).¶

(2) The department must refer a city that has not undertaken the action by the revised deadline under OAR 660-008-0200(2) and is not exempt from referral under section (1) to the Housing Acceleration program pursuant to ORS 197A.130(3)(c).¶

(a) Referral under this section may only occur after the submittal and Department evaluation of a Midpoint Report.¶

(b) The Department will evaluate implementation of and progress on all actions included in an adopted Housing Production strategy since the previous Midpoint Report.¶

(3) For cities referred under section (2), the Department must conduct an audit under OAR 660-008-0325 focused only on:¶

(a) The action or actions that the city has failed to undertake;¶

(b) The housing needs addressed by the action or actions;¶

(c) Other actions taken by the city to address the needs; and¶

(d) Any additional proportionate actions that may be necessary to address the needs, in lieu of the action or actions in subsection (a).¶

(4) A Housing Acceleration Agreement developed under OAR 660-008-0330 to address failure of a city to undertake an action may only include needed proportionate actions necessary to address an outstanding housing need resulting from the failure to undertake an action or actions under this rule.¶

(5) A city submitting materials to the department under OAR 660-008-0325(2), may provide the department the following materials for consideration in the audit:¶

(a) Any specific actions the city has taken to address the need in lieu of the action or actions proposed in the Housing Production Strategy; and¶

(b) Any alternative actions the city could take to proportionately address the need.¶

(6) If a city is also referred to the Housing Acceleration Program under OAR 660-008-0320, the department must consolidate the audit and agreement under section (3) into a single process, consistent with the deadlines under ORS 197A.130.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.130

ADOPT: 660-008-0320

RULE SUMMARY: DLCD to refer cities that are underperforming on their housing production targets, relative to the region and market peers. This rule sets out a framework by which DLCD determines the eligibility of cities for referral based on their progress towards housing production targets on OHCS' housing production dashboard, then prioritizes referral of cities up to DLCD's capacity.

CHANGES TO RULE:

660-008-0320

Referral based on Performance at the Housing Production Strategy Midpoint Report

The department is required to determine the lowest performing cities, if any, on an annual basis. To provide a consistent and predictable framework by which the department dedicates staff time and resources to implementing this rule, the department must refer any lowest performing city to the Housing Acceleration program via the following process:

(1) The department must annually determine the maximum number of both standard and comprehensive audits completed under this rule within a calendar year, in consideration of the following factors:

(a) The capacity of department staff to conduct audits under OAR 660-008-0325, develop housing acceleration agreements under OAR 660-008-0330, and support local implementation of housing acceleration agreements as specified in ORS 197A.130(7);

(b) The number of Housing Capacity Analyses due under OAR 660-008-0045;

(c) The number of Housing Production Strategies due under OAR 660-008-0045;

(d) The number of Midpoint Reports due under OAR 660-008-0215;

(e) The number of referrals to the Housing Acceleration program related to the implementation of Housing Production Strategies made under OAR 660-008-0310 to OAR 660-008-0315, including its impact on subsection (a);

(f) The availability of funding to support the implementation of actions identified in a housing acceleration agreement developed in response to an audit;

(g) Whether the department or cities with a population of 10,000 or greater are subject to separate housing-related legislation, administrative rule, or orders that obligate capacity and funding for implementation, including but not limited to rulemaking or local comprehensive plan or development code amendments; and

(h) For audits requesting concurrent review under ORS 197A.205, the capacity of the Housing and Community Services Department to concurrently participate in and support audits. The department must consult with the Housing and Community Services Department in determining capacity under this section.

(2) The department must annually determine which cities, if any, are eligible for referral to the Housing Acceleration Program under this section. Eligible cities must meet the following criteria:

(a) The city was required to submit a Midpoint Report under OAR 660-008-0215; and

(b) The city is underperforming on its total housing production target or its housing production target for household incomes at or below 80 percent area median income, which includes:

(A) The city is not meeting its total housing production target and is performing below the 50th percentile in comparison to the region or market peers, as determined by the housing production dashboard under ORS 456.601; or

(B) The city is not meeting its housing production target for incomes at or below 80 percent area median income and is performing below the 50th percentile in comparison to the region or market peers, as determined by the housing production dashboard under ORS 456.601.

(3) Among eligible cities, the department must remove from consideration any city meeting at least one of the following mitigative criteria:

(a) The city is demonstrably increasing the rate of total production and production of housing affordable to households earning at or below 80 percent area median income, relative to the region and market peers, as determined by the housing production dashboard under ORS 456.601; or

(b) The city had been referred to the Housing Acceleration program under this section at the previous Midpoint Report.

(4) The department must prioritize the referral to the Housing Acceleration program of cities determined eligible under section (2) and (3), up to the maximum number of audits determined under section (1), based on the following priority considerations:

(a) Severity of underproduction of total housing units, in comparison to the region and market peers as determined by the housing production dashboard under ORS 456.601;

(b) Severity of underproduction of housing affordable to households earning at or below 80 percent area median income, in comparison to the region and market peers as determined by the housing production dashboard under

ORS 456.601; and¶

(c) Housing equity indicators produced under ORS 456.602 as they relate to Fair Housing Issues identified under OAR 660-008-0075.¶

(5) The department shall prioritize comprehensive audits under OAR 660-008-0325(4) where the priority considerations in section (4) indicate a prospective need for a contextual audit under OAR 660-008-0325 or coordinated action from multiple public bodies, including but not limited to:¶

(a) Removing barriers to the development of housing affordable to households earning at or below 80 percent area median income:¶

(A) For referrals of cities to the Housing Acceleration program under this subsection, the department must request concurrent review by the Housing and Community Services Department.¶

(B) Nothing in this subsection prohibits the department from coordinating with the Housing and Community Services Department for any referral to the Housing Acceleration program.¶

(b) Addressing or improving fair and equitable housing outcomes or addressing barriers to Fair Housing Choice.¶

(6) The department may refer to the Housing Acceleration program less than the maximum number of audits determined under section (1) when the number of eligible cities determined under sections (2) and (3) is less than the maximum determined under section (1).

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.130

ADOPT: 660-008-0325

RULE SUMMARY: This rule sets out the process, inputs, and outputs of an audit conducted by DLCD for a city referred into the Housing Acceleration program.

CHANGES TO RULE:

660-008-0325

Department Audit for Cities Referred into the Housing Acceleration Program

For cities referred to the Housing Acceleration program under ORS 197A.130(3), within six months of issuance of public notice of referral under section (1), the department must, in cooperation with the city, complete an audit of specific housing barriers.¶

(1) The department must provide public notice of referral for each city referred to the Housing Acceleration program under OAR 660-008-0310 to OAR 660-008-0320, to notice recipients under OAR 660-008-0210, and to affected public bodies by July 1 of each calendar year. The notice must include:¶

(a) Findings documenting the basis of referral for each city referred to the Housing Acceleration program, including one or more of the following:¶

(A) Failure to adopt a Housing Capacity Analysis, Housing Production Strategy, or Midpoint Report as provided under OAR 660-008-0310;¶

(B) Failure to undertake an action or actions in an adopted Housing Production Strategy as provided under OAR 660-008-0315;¶

(C) Referral to the Housing Acceleration program by the commission under ORS 197A.130(3)(d); or¶

(D) Referral to the Housing Acceleration program based on city performance as provided under OAR 660-008-0320.¶

(b) A description of the Housing Acceleration program and procedures provided in this rule;¶

(c) Any required actions or materials that a referred city must complete or submit to the department under section (2) and how and where these materials may be freely obtained by the public;¶

(d) That the public may submit comment to the department within 45 days of notice provided under section (3); and¶

(e) That actions taken by the city or the department under the housing acceleration program are not land use decisions and are not subject to appeal or review.¶

(2) For all audits, within 45 days of public notice of referral to the Housing Acceleration program, a referred city must provide the notice of referral to the governing body of the city and submit to the department the following information, if available and relevant to the basis for referral:¶

(a) The adopted Housing Capacity Analysis, Housing Production Strategy, adoption record including all public testimony, and Midpoint Report, if not already submitted to the department. A city referred to the Housing Acceleration program under OAR 660-008-0310 may submit any available draft materials related to an impending housing production strategy;¶

(b) Information related to actions and inactions that impact local fair and equitable housing outcomes, environmental justice, climate resilience and location choice that is not otherwise captured in the Housing Production Strategy;¶

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

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

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

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

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

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

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

(C) Required fees, exactions, and improvements; and¶

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

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

(A) Local resource deficiencies, including staffing, public facilities, capital improvements to infrastructure.

availability of buildable lands, and actions or investments to prepare land for development;¶
(B) Specific additional state resources that could support housing production;¶
(C) Any state laws or rules or the regulations, policies, actions or inactions of any public body that could impact housing production; and¶
(D) Other factors limiting housing that are not within the city's control.¶
(i) Where a city does not have access to or fails to provide suitable information under this section, the department may utilize best available information to support the findings of an audit;¶
(j) Nothing in this section prohibits the department from utilizing other sources of relevant data or information, including but not limited to information collected under sections (3) and (4).¶
(3) For all audits, within ten days of receipt of the submission under section (2), the department must compile submitted information and notify recipients under section (1) that public comment may be submitted to the department within 45 days of the notice date. The department must:¶
(a) Provide in a publicly available format any relevant audit materials, including the notice provided under section (1) and materials submitted under section (2)¶
(b) Instructions for delivering public comment to the department; and¶
(c) Append any comments submitted within 45 days to the audit published under section (5).¶
(4) For comprehensive audits, in addition to public comment under section (3), the department must solicit and consider additional contextual information to support audit findings, which may include:¶
(a) In consideration of engagement summaries submitted under subsection (2)(c), supplemental engagement and invited feedback from interested parties, including but not limited to:¶
(A) City staff and public officials;¶
(B) Local or regional market-rate housing developers;¶
(C) Local or regional subsidized affordable housing developers;¶
(D) Local or regional community-based and non-governmental organizations;¶
(E) Community members, including those described under OAR 660-008-0200(1) and (2)(m); ¶
(F) Other relevant public bodies that affect housing production within the city; ¶
(G) Tribal governments within the region, if any; and¶
(H) Other relevant market or affordable housing-related actors that affect housing production within the city, including lenders, laborers, and occupants.¶
(b) Engagement and coordination with affected public bodies on barriers or issues that extend beyond a city's control, including:¶
(A) County or regional coordination as it relates to urbanization and regional programs and resources, including Metro for cities within Metro;¶
(B) Special district and utility coordination as it relates to the provision of public facilities to support housing production; and¶
(C) State agency coordination as it relates to policies and programs that affect housing production within a city.¶
(c) For audits focused on affordable housing production, concurrent review with the Housing and Community Services Department. In addition to the materials submitted under section (2), the department may require the following additional information from a city, if available:¶
(A) Any contextual information related to affordability not reflected in statewide housing data, including but not limited to naturally occurring affordable housing, tenant assistance or vouchers, or homeownership programs; or¶
(B) Information related to subsidized affordable housing development proposals and inquiries, including any contact information, permitting information, and public record information relating to development application approvals or denials:¶
(i) For cities within Metro, the previous six calendar years.¶
(ii) For cities outside of Metro, the previous eight calendar years.¶
(d) Nothing in this section prohibits the department from soliciting or considering additional contextual information or invited stakeholder feedback for audits that are not comprehensive audits.¶
(5) In conducting the audit, the department must prioritize evaluation of existing and expected barriers to Fair Housing Choice, including barriers contributing to Fair Housing Issues identified under OAR 660-008-0075 in the most recently adopted or amended Housing Production Strategy.¶
(6) Within six months of public notice issued under section (1), the department must publish an audit of specific housing barriers, including those identified in the Contextualized Housing Need under OAR 660-008-0075. The audit that must include an analysis of the factors provided in ORS 197A.130(4). For each identified barrier, the audit must contain:¶
(a) A description of the identified barrier, including a description of how the barrier relates to the city's basis for referral to the Housing Acceleration program. The department must consider existing and expected local barriers as it relates to identified Fair Housing Issues in the Contextualized Housing Need analysis under OAR 660-008-0075.¶

- (b) An evaluation of factors that may affect or relate to an identified barrier, including:
- (A) Market conditions and factors related to or affecting the barrier;
 - (B) City context, including existing actions, investments, policies, or programs related to the barrier and an evaluation of city funding and staff capacity to undertake additional action;
 - (C) Regional context, including actions, investments, policies, or programs of relevant local or regional public bodies that affect the barrier, if applicable; and
 - (D) Statewide context, including actions, investments, policies, or programs of relevant local or regional public bodies that affect the barrier, if applicable;
 - (c) Identified regional, state, and federal orders, agreements, actions, programs, or investments that could support or hinder local action to addressing the identified barriers, if any;
 - (d) An identification of relevant actions proposed in the existing Housing Production Strategy and evaluation of the efficacy of the action or actions to address identified barrier;
 - (e) If the barrier can be partially or wholly addressed via city action, one or more alternative actions provided by the department that can address the identified barrier. Any action provided under this section must include:
 - (A) A description of the action, including any relevant case studies, resources, or adoption-ready policies furnished by the department;
 - (B) An evaluation of the approximate funding and staff capacity necessary to undertake the action;
 - (C) An evaluation of the city's proportionate financial resources and staff capacity to undertake an action;
 - (D) If the action requires multiple public bodies for implementation, a description of the public bodies and concurrent actions necessary for local implementation; and
 - (E) An evaluation of the approximate magnitude of impact that the action will likely have on the identified barrier.
- (7) For each barrier identified in the audit, the department must determine whether the factors affecting housing production, affordability, and choice are a consequence of policies and practices that are directly within the city's control under ORS 197A.130(8)(a). Actions identified under subsection (6)(e) are directly within a city's control if the action:
- (a) Is within the jurisdictional control of the city;
 - (b) Can reasonably be implemented with available city resources and staff capacity identified under paragraph (6)(e)(C), supported by technical and financial assistance provided by the department; and
 - (c) The department can sufficiently provide technical and financial assistance necessary to support city implementation.
- (8) Where the department concludes under section (7) that a city lacks reasonable existing resources and staff capacity to implement actions to address an identified barrier, the audit must also include and prioritize actions that build city capacity, including consideration of:
- (a) Any identified state or federal programs or investments that can increase local capacity; and
 - (b) Existing and projected city revenue that can increase local capacity, including actions that increase or stabilize local revenue or dedicate funds for increased local capacity.
- (9) After the department publishes an audit under section (6) it shall notify all parties described in section (1) through (4) and provide access to the published audit in a publicly available format. The city must provide the published audit to the governing body of the city.
- (10) Any local government may voluntarily request the department conduct an audit of local, regional, or state barriers.
- (a) A request by a local government or city may be submitted to the department at any time. The request must specify:
 - (A) The scope of issues or barriers the audit is intended to address;
 - (B) The preferred timeframe for an audit to occur;
 - (C) Any relevant local or regional governments or state agencies that relate to the identified issue or issues; and
 - (D) How the request relates to current or future work the local government or city will complete, including an adopted or future Housing Production Strategy.
 - (b) If the department accepts the request, the requirements of ORS 197A.130 and OAR 660-008-0325 to OAR 660-008-0335 do not apply, and the findings of the audit are non-binding on the department and the local government or city.
 - (c) In considering whether to approve a request made under this section, the department must prioritize:
 - (A) Mandatory referrals to the Housing Acceleration program made under OAR 660-008-0310 to 660-008-0320;
 - (B) Supporting the implementation of an existing or future Housing Production Strategy under ORS 197A.100;
 - (C) Addressing substantial issues that inhibit housing production, affordability, and choice or best advances the purpose described in OAR 660-008-0000, and
 - (D) Issues or barriers that are most readily addressed by an audit or intervention by the department.

(d) In lieu of an audit, the department may provide alternative options to a local government or city to address an identified issue or issues in an audit request, including the provision of technical or financial support, as available.¶

(e) Nothing in this section prohibits the department from making mandatory referrals to the Housing Acceleration program under ORS 197A.130(3).¶

(11) As part of the summary of Housing Production Strategies under OAR 660-008-0210(9), the department will incorporate a summary of any state policies or programs identified in audits conducted under OAR 660-008-0325.¶

(12) The department may grant limited extensions to any of the deadlines of this rule for emergencies, good cause, or other factors outside of the city's control. Upon a request for a timeline extension, the department must provide a written decision within 30 days of the request, including the rationale for the extension and a revised timeline.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.130

RULE SUMMARY: This rule sets out the framework, structure, and commitments outlined in a Housing Acceleration Agreement.

CHANGES TO RULE:

660-008-0330

Housing Acceleration Agreement

Within six months following an audit completed under OAR 660-008-0325, the city and the department must enter into a housing acceleration agreement that is based on and proportionate to the city's basis for referral to the Housing Acceleration program under OAR 660-008-0310 to OAR 660-008-0320.

(1) The director and the city must sign a housing acceleration agreement within six calendar months of the publication of the audit under OAR 660-008-0325.

(a) The governing body of a city may designate an authorized representative to sign the agreement.

(b) The department must provide for at least a 90-day period for city review of a draft agreement before the deadline under this section. The department must grant a time extension to provide a 90-day period for city review if the department does not provide a draft agreement as provided in this subsection.

(c) The city must adopt a housing acceleration agreement as an appendix to the consequent or subsequent Housing Production Strategy adopted as provided in section (3) and (4). Nothing in this section prohibits a city from entering a housing acceleration agreement and amending a Housing Production Strategy concurrently.

(2) The housing acceleration agreement must specify actions, parameters, and timelines by which the department and the city respond to barriers identified in the audit published under OAR 660-008-0325.

(a) The department must agree to provide the following as necessary to support the city in the implementation of an action or actions specified in an agreement:

(A) Technical assistance, regulatory support, and other assistance;

(B) Financial or funding support available to the department in consideration of city funding needs identified under OAR 660-008-0325(6); and

(C) Assistance in pursuing other state or public funds in consideration of city funding needs identified under OAR 660-008-0325(6).

(b) The city must agree to take actions specified in sections (3) and (4) that proportionally address each barrier within the city's control as identified in OAR 660-008-0325(6), which may include:

(A) One or more of the actions proposed in the existing Housing Production Strategy as identified in OAR 660-008-0325(6)(d);

(B) One or more of the alternate actions identified in OAR 660-008-0325(6)(e) to address a barrier identified in an audit; or

(C) An alternate action or actions to those identified in OAR 660-008-0325(6)(e). The city must demonstrate that the alternate actions address the identified barrier or barriers on an equivalent and proportionate basis to actions identified in OAR 660-008-0325(6)(e).

(c) The department or the city may coordinate, mediate, or enter into agreements with other public bodies to fulfill actions included in a Housing Acceleration Agreement.

(3) If the published audit conducted under OAR 660-008-0325(7) determines that the factors affecting housing production, affordability, and choice for an identified barrier are a consequence of policies and practices that are directly within the city's control, the city must adopt an amended Housing Production Strategy within six months of the execution date of the housing acceleration agreement that includes:

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

(b) Specific city actions, which may include, but are not limited to:

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

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

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

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

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

(F) Taking emergency temporary measures to support housing production;

(c) For actions that require coordination with other public bodies, participation in any department initiated mediation or coordination to identify policies and resources that would support housing production in the city.

(4) For actions other than those described in section (3), the city must include findings in its subsequent housing production strategy that the actions included address the barriers identified in the audit. For actions that require coordination with other public bodies, the city may request department coordination and mediation to support city implementation of a Housing Production Strategy.

(5) A housing acceleration agreement must include timelines with clear deadlines for the amendment of a Housing Production Strategy under section (3), actions undertaken in the agreement, and subsequent adoption of a Housing Production Strategy.

(a) The subsequent deadline for a Housing Production Strategy is the latter of:

(A) Three years following the amendment of a Housing Production Strategy under section (3); or

(B) One year after the city's deadline for completing a Housing Capacity Analysis under OAR 660-008-0045.

(b) The department may provide extensions to a city's subsequent Housing Production Strategy deadline under OAR 660-008-0310(1).

(6) The department will review an adopted or amended Housing Production Strategy under OAR 660-008-0210 for consistency with the actions, timelines, and parameters in an executed housing acceleration agreement.

(7) A city must implement actions identified in a housing acceleration agreement within the timeline and parameters specified in the executed agreement. The department will address non-compliance in abiding the terms of a housing acceleration agreement as specified in OAR 660-008-0335.

(8) The department may grant limited extensions to any of the deadlines of this rule for emergencies, good cause, or other factors outside of the city's control. The department must provide a written decision within 30 days of the city's request for a timeline extension, specifying the rationale for the extension and any revised timeline.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.130

RULE SUMMARY: In the case of non-compliance in entering or abiding the terms of a Housing Acceleration Agreement, this rule establishes tools and a process by which DLCD enforces the above rules. The vehicle for enforcement is an enforcement order issued by the Land Conservation and Development Commission which, among other actions, may implement a model code.

CHANGES TO RULE:

660-008-0335

Non-Compliance in Entering or Abiding the Terms of a Housing Acceleration Agreement

A city referred to the Housing Acceleration program under OAR 660-008-0310 to OAR 660-008-0320 and the department must enter into a housing acceleration agreement under ORS 197A.130(6) within six months of the publication of an audit by the department. Under an adopted housing acceleration agreement, the city must take actions by deadlines specified in the housing acceleration agreement as described in OAR 660-008-0330. The department will take the following actions in response to non-compliance with a housing acceleration agreement in furtherance of timely and effective implementation of a housing acceleration agreement:¶

(1) If the city fails to enter or abide the terms of a housing acceleration agreement under OAR 660-008-0330 by the prescribed deadline, the department must issue written notice to the city within 30 days.¶

(a) If the department does not provide a housing acceleration agreement to the city at least 90 days before the deadline under OAR 660-008-0330(1), the city has not materially breached a term of the housing acceleration agreement.¶

(b) If the department does not fulfill an action specified in an adopted housing acceleration agreement necessary for the local fulfillment of the agreement, including the provision of technical assistance or funding under OAR 660-008-0330(2)(a)(A), the city has not materially breached a term of the housing acceleration agreement.¶

(2) In any notice under section (1), the department must include:¶

(a) The date of the notice;¶

(b) The specific delinquent actions and deadlines that the city is required to fulfill;¶

(c) A description of the action or actions the city can take to remedy the delinquency, including timelines by which the action or actions must be taken;¶

(d) An offer to enter formal mediation between the department and the city under section (3);¶

(e) A description of the enforcement actions that the department will take against the city if action is not taken within 90 days, including the initiation of an enforcement order under ORS 197.320(13); and¶

(f) A description of the potential enforcement tools provided in ORS 197.335(6) that could be applied in an enforcement order.¶

(3) Within 30 days of the notice date, a city may request formal mediation with the department to remedy the identified delinquency. ¶

(a) If requested, the department will enter formal mediation with the city to identify specific actions and resources needed to remedy the delinquency.¶

(b) The department may grant a limited extension to a city's prescribed deadline in a housing acceleration agreement under OAR 660-008-0330 to accommodate the implementation of actions and resources identified in mediation.¶

(4) Within 90 days of notice under section (1), if a local government has not taken action to remedy the delinquency described in subsection (2)(c) and has not entered formal mediation with the department, the department will initiate an enforcement order under ORS 197.320(13). In initiating an enforcement order, the department will recommend an order to the commission as authorized under 197.335(6), including:¶

(a) The specific action or actions necessary to remedy the identified delinquency;¶

(b) Required application of model ordinances and procedures developed by the department to all residential development within the city until the specific action or actions identified in the order are undertaken; and¶

(c) Other enforcement provisions under ORS 197.335(6) that are relevant and necessary to remedy the identified delinquency.¶

(5) The department may grant limited extensions to any of the deadlines of this rule for emergencies, good cause, or other factors outside of the city's control. The department must provide a written decision within 30 days of the city's request for a timeline extension, specifying the rationale for the extension and any revised timeline.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.130, ORS 197.320, ORS 197.335