

# Introduction and Intent

This proposal outlines a refined accountability framework designed to strengthen the Acceleration Program by introducing clearer, objective expectations and enhancing the connection between a jurisdiction's Housing Production Strategy (HPS) and the acceleration program itself.

We believe a more structured and transparent approach will improve consistency, fairness, and efficacy in how jurisdictions are held accountable for meeting housing production targets. In particular, we emphasize the need for:

- **Defined expectations** that jurisdictions are aware of in advance, creating a fair and predictable framework for compliance.
- **Checklist-based evaluation tools** that provide both jurisdictions and the Department of Land Conservation and Development (DLCD) with clear, mutual understanding of standards and consequences.
- **Stronger alignment between HPS commitments and audit outcomes**, ensuring that the acceleration program is a direct extension of earlier planning and implementation efforts.

We also want to reaffirm the importance of maintaining a distinction between **standard and comprehensive audits**, consistent with our understanding of the original intent behind their creation in rule.

- **Standard audits** should emphasize objectivity and efficiency, using straightforward checklists, clear metrics, and limited demands on staff time.
- **Comprehensive audits** should acknowledge and accommodate the complex, nuanced challenges some jurisdictions face, particularly around fair housing and equity, while still retaining accountability for things within cities' control.
- The mechanisms proposed here are primarily intended to strengthen **standard audits**, but we also believe they can and should be **adapted for use within comprehensive audits**, ensuring that objectivity and clarity are embedded throughout the process.

Finally, we recognize that no universal checklist can capture the full range of challenges jurisdictions may encounter, which will include elements both within and outside of a jurisdiction's control. There must be space for **context-specific discretion**, and the framework must allow for local complexity. However, we strongly believe that addressing these **context-specific matters should come as the final tier of evaluation**, not the first - after all standardized tools, best practices, and state-provided pathways have been fully leveraged.

This approach balances structure with flexibility and accountability with support, while preserving the integrity of Oregon's broader housing goals.

# Strengthening the Acceleration Program: Proposed Acceleration Program Compliance Pathway

This proposal aims to enhance the Acceleration Program through:

- Providing clear, objective expectations where they make sense while focusing and limiting discretion to parts of the process that require and will benefit from it.
- Stronger alignment between a jurisdiction's Housing Production Strategy (HPS) and the audit/acceleration process
- Leverage differentiation between standard and comprehensive audits

This framework introduces a structured, tiered system to assess jurisdiction compliance, establish accountability, and guide corrective actions.

## 1. Midpoint Review of HPS Implementation

**Objective:** Identify jurisdictions that have failed to implement committed HPS actions by the midpoint review, and ensure jurisdictions are held accountable for these failures.

- **Action Trigger:** Failure to implement on schedule **any** committed HPS action, per 197A.130(1)(b).
- **Resolution:** Require jurisdictions to implement actions from their HPS unless they provide acceptable alternatives and/or explanation for non-action.
  - Jurisdictions must agree to implement the action(s) as part of their mid-point report with a **specific and accelerated timeline**, *unless* they can:
    1. Prove the failure was beyond their control (per statute); or,
    2. Propose alternative actions addressing the same housing issues,
      - This will require collaboration with DLCD to define parameters for the alternative action, ensuring it is likely to have the intended impact, and will address the associated housing issue(s) within the same or reasonably comparable timeframe as the originally proposed strategy(ies) would have.
  - If a jurisdiction fails to proactively provide these details and/or if DLCD deems the alternatives/reasons unacceptable, this will result in referral into the Acceleration Program, and will result in the above requirements as part of the Housing Acceleration Agreement.

- Additional Emphasis on implementing safe harbors, rebuttable presumptions, etc:
  - Jurisdictions that fail to implement rebuttable presumptions, safe harbors, model codes, Adoption Ready Actions, and similar tools meant to streamline the process should face heightened scrutiny to discourage misuse of these options. This could, for example, look like automatic referral into the Acceleration Program with no opportunity to correct or propose alternatives in the mid-point report if these actions are not undertaken. Once in the Acceleration Program, a jurisdiction would have the opportunity to correct the failure to implement, but it will be rolled into the full acceleration program process as a result.

### **Associated rules sections and recommended edits to meet the objective:**

The existing rules language on this area of accountability is close to the proposed objective, but would benefit from some edits to provide further clarity and strengthen accountability outcomes. Suggested edits are shown in **bold red text**, reasoning is provided in brackets in italics below each relevant section.

#### 660-008-0230

(4) If the city has not implemented **all any** actions 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...

*[Reasoning: changing “any” to “all” helps to clarify the intention here that the failure to implement a single action (or more) from an HPS triggers this reporting requirement.]*

(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 660-008-0215(6). The department will also evaluate requests **under criteria provided in ##** for implementation timeline extensions and replacement actions as applicable.

*[Reasoning: Providing clear and transparent evaluation criteria ahead of time will help jurisdictions provide explanations and alternatives that are more likely to meet the intent of this section, and also provides DLCD a consistent baseline to work from - ideally creating a less staff intensive process for both the jurisdiction and the state.]*

#### 660-008-0315

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

*[Reasoning: The use of “shall” provides clarity that a jurisdiction will be required to agree to actions to address the outstanding needs associated with the action(s) that were not implemented as described in their HPS, while maintaining the state’s ability to include additional actions beyond these associated actions in the HAA, if necessary.]*

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## 2. Once Referred into the Acceleration Program, Return to Land Use Actions in HPS Compliance Pathway

**Objective:** Evaluate jurisdictions against DLCD’s established land use best/promising practices for issues for which a jurisdiction has been referred into the acceleration program.

- **Action Trigger:** A jurisdiction has been referred into the Acceleration Program due to not meeting performance targets in its Housing Production Strategy Midpoint Report (OAR 660-008-0320), and those performance issues align with areas identified in the HPS Compliance Pathway’s Compliance Menu for Land Use and Zoning Actions. As currently drafted, these areas include (grounds for referral eligibility noted):
  - Overall Production (OAR 660-008-0320(5)(a))
  - Housing Types that Increase Choice (OAR 660-008-0320(5)(c) → OAR 660-008-0075(1)(c))
  - Affordability (OAR 660-008-0320(5)(b))
  - Accessible & Adaptable Housing (OAR 660-008-0320(5)(c) → OAR 660-008-0075(1)(c)(C))
  - Affordable Homeownership & Wealth-Building Tenure Options (OAR 660-008-0320(5)(c) → OAR 660-008-0075(1)(c)(A))
  - High-Opportunity Areas (OAR 660-008-0320(5)(c) → OAR 660-008-0075(1)(c)(D))
  - Racially/Ethnically Concentrated Areas of Affluence (OAR 660-008-0320(5)(c) → OAR 660-008-0075(1)(c)(F))
  - Displacement Areas (OAR 660-008-0320(5)(c) → OAR 660-008-0075(1)(c)(E))
  - Racially/Ethnically Concentrated Areas of Poverty (OAR 660-008-0320(5)(c) → OAR 660-008-0075(1)(c)(F))
- **Resolution:** Use the Compliance Menu for Land Use and Zoning Actions as the initial point to establish a set of required actions for the Housing Acceleration Agreement (HAA).
  1. **Filter the Compliance Menu** based on the intersection of issue(s) a jurisdiction was referred into the Acceleration Program for and the actions on the menu that are denoted as being a possible tool for addressing that issue:
  2. **Review what a Jurisdiction has implemented or plans to implement already:** Has the jurisdiction adopted (or does it plan to adopt in the second half of its current HPS implementation period) **all** applicable actions from the

Compliance Menu for the housing issue under review? If not,

- All\* of those items will be added to the jurisdiction's HAA; unless,
    - The jurisdiction provides a valid rebuttal for not having adopted each action [or any actions that would be necessary to adopt in order to meet the established minimum number of actions] (e.g., forces outside of the jurisdiction's control or alternative actions already having same impact on same issues)
  - NOTE: as reflected in the recommended rules language below:
    - \*Instead of requiring adoption of all relevant strategies, the state may decide to establish a pre-determined minimum number of strategies a jurisdiction must agree to adopt to meet this requirement - mirroring the method described in the April 17, 2025 "HPS Action Selection and Acceleration Agreement Compliance Pathways: Proposal" Memo - "Must include at least one additional action(s) identified as "Yes" or "Yes if focused" for [issue area] on the compliance menu." We recommend this be at least equal to if not greater than the minimum number required in the HPS Compliance Pathway.
    - Review would be based on the Compliance Menu that was active/adopted at the time of acceptance of the city's active HPS (if different from current); and, any items that have since been removed from the relevant Compliance Menu would be omitted from this requirement.
3. **Implementation Options:** As part of action selection and/or once actions have been determined to be required as part of a jurisdiction's HAA, there may be two means for DLCDD to regulate action implementation to ensure the intended outcome is met:
- **Standardized Actions:** Whenever possible, require reference to existing state model codes (and/or establish a workplan for developing additional model codes for action items on the Compliance Menu wherever possible). This provides straightforward land use requirements: a compliant local zone is one that is (in DLCDD staff's discretion) at least as liberal as a state model code.
    - Example applications:
      - RB-4: Permit Ready Plans (e.g., refer jurisdictions to model code(s) already in progress)
      - RB-7: Upzone Residential Land and/or ZI-1 Development Intensity: focusing on affordable housing need (e.g., provide clear parameters of density thresholds to support LIHTC projects and refer to the forthcoming State's model code (as described in the May 14, 2025 "Model Code Discussion Memo")

- RB-7: Upzone Residential Land: Focusing on general housing production need - tie to the State's model code (as described in the May 14, 2025 "Model Code Discussion Memo")
  - Different required scales based on city size or gap in production targets may also be worth considering here.
  - **Collaborative Development:** For more nuanced or local-specific actions, DLCD expects that the jurisdiction will work with DLCD to establish tailored solutions and final approval of implementation of actions on the Menu(s)/jurisdiction's HAA.
4. **Parallel processes to reflect existing rules language:** Apply a parallel process for all model codes and Adoption Ready Actions established by DLCD.

### **Associated rules sections and recommended edits to meet the objective:**

The existing rules language on this area of accountability has some elements that support this objective, but would benefit from some edits, clarifications, and notable additions to provide further clarity and strengthen accountability outcomes.

Suggested edits are shown in **bold red text**, reasoning is provided in brackets in italics below each relevant section.

#### 660-008-0325

(5) In conducting the audit, the department must evaluate ~~and prioritize~~ the following, including the provision of resources and intergovernmental coordination to support local actions related to:

(a) 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

**(b)(e)** Barriers to housing production in climate-friendly areas under OAR 660-012-0310;

**(6)** In conducting the audit, the department must prioritize **including the following in a jurisdiction's Housing Acceleration Agreement, as described in section (7)**, including the provision of resources and intergovernmental coordination to support local actions related to:

**(a)(b)** Adoption-ready actions under OAR 660-008-0210 **and the Compliance Menu for Land Use and Zoning Actions under OAR 660-008-xxxx** to address identified barriers to housing production, affordability, and choice.

**(b)(d)** Acceleration of total production and production of housing affordable to households earning at or below 80 percent area median income, compared to the city's previous housing production strategy cycle and relative to the region and market peers as determined by the housing production dashboard. Pursuant to data availability, the department will consider acceleration of production at each of the following income levels:

*[Reasoning: delineating what should be “evaluated” from what should be “prioritized” reduces ambiguity around the intention for the state to require jurisdictions, unless adequately rebutted, to adopt certain actions that have already been vetted as promising or best practices as part of the extensive rulemaking process. Similarly, this is why we want the forthcoming Compliance Menu added to this section of the rules.  
All other edits are to renumber/align sections based on the additions and separation of sections]*

**(7) In conducting the audit, the department must evaluate whether a city has implemented, or has committed to implementing in the second half of their active HPS implementation period, all\* strategies that were included, at the time of acceptance of the city's active HPS, on the Compliance Menu for Land Use and Zoning Actions under OAR 660-008-xxxx, that are associated with the reason(s) for a city's referral under 660-008-0320 (referral based on performance). Any such strategies not yet implemented or planned for implementation during the second half of the active HPS implementation period shall be included in the subsequent HAA unless:**  
**(a) the city can show [to DLCD's satisfaction] that the strategy would not meaningfully increase housing production, affordability, or choice in the city; or**  
**(b) the item has since been removed from the relevant Compliance Menu.**

**(8)(6)** Within six months of public notice issued under section (1), the department must...

\*alternatively, this could be "at least X strategies"

*[Reasoning: the addition of this section is meant to further provide clear expectations for referencing and, where appropriate, requiring adoption of, relevant items on the Compliance Menu.  
All other edits are to renumber/align sections based on the additions and separation of sections]*

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### 3. Final Step in Acceleration Program Action Development: Discretionary Review of Unique Barriers

Objective: Address issues not captured by structured checklists or action lists.

- **Timing:** This is the final review layer, after applying structured filters.
- **Approach:** Aligns with “Part II” of the HPS Compliance Pathway Memo (April 17).
- **Flexibility:** Recognizes that jurisdictions may face unique, context-specific challenges that require individualized solutions, and allows for solutions and actions by the jurisdiction and the state that are reflective of these unique instances

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