

HOUSING NEEDS & HOUSING CAPACITY WORK GROUP

JOINT MEETING PACKET



TO: Housing Needs and Housing Capacity Work Group Members
FROM: Sean Edging, Housing Planner
SUBJECT: Housing Needs and Housing Capacity Work Group Joint Meeting Packet

Work Group Members,

Thank you for your participation in previous work group meetings. Meeting notes and a summary of major discussion themes can be accessed [here for the HCWG](#) and [here for the HNWG](#). The next meeting will be a joint meeting between 1 and 3 pm of both working groups to discuss some more specific policy details to implement recommendations from the [draft recommendations report](#), and a focused housing capacity discussion between 3 and 4pm to hone in on recommendations specific to that legislative direction.

The project team anticipates publishing a refined recommendations report on November 10th. Included in this packet is a draft policy outline intended to provide a high-level overview on the types of refinements to statute, agency direction, and appropriations required to implement recommendations in the draft report. This information will be critical as DLCD's role transitions to advisory as the Legislature considers important policy decisions on how to implement recommendations. The purpose of the joint meeting is to review and refine this draft outline, so DLCD can provide appropriate guidance and advice to legislators and legislative counsel as they prepare policy concepts.

Below, you will find a packet of materials to help you prepare for the meeting scheduled for **Thursday, October 20, 2022 from 1 – 4pm**. Please note that this meeting has been extended one hour to include additional focused discussion of housing capacity-related policies. This meeting will be held virtually over Zoom.

Both work group members and non-members can join the meeting at the following link:

<https://us02web.zoom.us/j/83468039816?pwd=Q3RYc2xtbHlTa0RNQlBaT3RvbEhhQT09>

Meeting ID: 834 6803 9816 | Passcode: 733195

Joint Work Group Meeting Materials List:

1. Meeting Agenda (pg 3)
2. [Housing Needs Work Group – Meeting 5 Summary Notes](#) (hyperlink)
3. [Housing Capacity Work Group - Meeting 6 Summary Notes](#) (hyperlink)
4. Draft OHNA Policy Outline (pg 6)

Please remember that the [Project Website](#) has many related materials available. You can find packets, meeting summaries/notes, and presentation materials from previous meetings there.

Finally, if you have any questions on the materials in this packet or about the OHNA itself, please feel free to contact me via phone or email, my information is listed below. On behalf of DLCD and the Land Conservation and Development Commission, we continue to be grateful for your participation in this important initiative.

Thank you,

Sean Edging, Housing Planner

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Oregon

Governor Kate Brown

Department of Land Conservation and Development
Department of Housing and Community Services

Housing Needs and Capacity Work Groups Joint Meeting

October 20, 2022 | Joint meeting: 1-3 pm | HCWG-focused discussion: 3-4pm

By [Zoom Web Conference](#)

Meeting ID: 834 6803 9816 | Passcode: 733195

Meeting Purpose

This work is part of the broader body of work on statewide housing planning. The Oregon Legislature directed DLCD staff to facilitate discussions and develop recommendations on the implementation of an Oregon Housing Needs Analysis (OHNA) and a defined and narrow set of Urban Growth Boundary (UGB) issues as they relate to the implementation of the OHNA.

On August 31, the project team published [Oregon Housing Needs Analysis Draft Recommendations Report: Leading with Production](#) and is currently refining the draft in response to public feedback. The team anticipates publishing a refined draft on November 10th in response to this feedback, and anticipates finalization after receiving final feedback from the Land Conservation and Development Commission at their [November meeting](#).

As the Legislature considers implementation of recommendations related to the OHNA, the project team's role is transitioning from project lead to advisory. The purpose of this meeting is to facilitate discussion with both work groups on how the project team can best advise legislators and legislative counsel on how to implement recommendations contained within the report.

Included in this packet is a high-level outline of the types of changes needed to implement recommendations draft report. This outline does not include specific statutory or bill language, but it provides general direction on the substantive statutory changes, agency direction, and appropriations necessary to implement the recommendations. Once refined, this document will be advisory to legislative counsel, who will draft any resultant bill language.

Work Group Role - Refer to the [Housing Capacity Work Group Charter](#) or [Housing Needs Work Group Charter](#).

Meeting Goals

- Provide a process update, including a brief overview of feedback on the draft recommendations report and next steps for the final report.
- Facilitate round-robin discussion intended to solicit top priorities from work group members in advising the Legislature on implementing OHNA recommendations.

Note: The meeting has been extended by one hour to facilitate additional focused discussion on housing capacity-related recommendations.

- Facilitate round-table discussion on specific feedback related to the implementation of capacity-related recommendations

Housing Needs and Capacity Work Groups Joint Meeting – Proposed Agenda		
Time	Topic	Who
1:00-1:15p	Welcome and Agenda Overview <ul style="list-style-type: none"> Review agenda and recap purpose of meeting Structure of the discussion and rules of engagement 	Facilitators – Jamie Damon, Kearns & West Deb Meihoff, Communitas
1:15-1:35p	Work Group Update <ul style="list-style-type: none"> Process update <ul style="list-style-type: none"> Overview of feedback on draft OHNA recommendations Next steps for final report Today's Discussion – framing and brief overview 	Sean Edging, DLCD
1:35-2:55p	Draft Policy Outline Discussion <ul style="list-style-type: none"> Menti Poll (5 minutes) <p><i>Question: In one word, please describe your overall feelings about the broad policy direction outlined in the draft OHNA recommendations?</i></p> Discussion (Round-robin ~2 min per member): <p><i>Question: What is the most important advice on the implementation of OHNA recommendations that the project team can relay to legislators and legislative council as they consider implementation? What are your <u>top three priorities</u>?</i></p> <p><i>Materials: OHNA Draft Policy Outline</i></p>	Sean Edging Facilitators
2:55-3:00p	Wrap-up (Housing Needs Work Group) <ul style="list-style-type: none"> Reminder on final report timeline & LCDC review Next meeting (Dec 8 – now optional) 	Facilitators

See next page for HCWG focused discussion between 3-4p

Note: Housing Needs Work Group members who are not members of the Housing Capacity Work Group are welcome, but not required, to stay on the meeting as observers.

Housing Capacity Work Group Focused Discussion – Proposed Agenda		
Time	Topic	Who
3:00-3:10p	Break – 10 min	<i>Jamie Damon, Kearns & West (facilitator)</i>
3:10-3:55p	Housing Capacity Work Group Focused Discussion <ul style="list-style-type: none"> Discussion (Round-table – 45 min): <p><i>Question #1: What specific refinements are necessary to ensure future legislative concepts best reflect the housing capacity recommendations and key takeaways from the process?</i></p> <p><i>Question #2: The small-scale UGB amendment remains the most contentious policy option of the eleven presented at the previous Housing Capacity Work Group meeting. While the recommendations will include important considerations necessary to successfully implement an effective policy, it will take significantly more work to establish a detailed and thoughtful policy proposal. What are the appropriate next steps to achieve this?</i></p> <p><i>Materials: OHNA Draft Policy Outline</i></p>	<i>Sean Edging, DLCD</i>
3:55-4:00p	Wrap-up	

Policy Outline – Implementing an Oregon Housing Needs Analysis (OHNA)

Published October 14, 2022

Context and Purpose

The purpose of this document is to provide a preliminary policy outline to facilitate discussion at the joint meeting of the Housing Need and Housing Capacity Work Groups on October 20, 2022. This outline is intended to respond to legislative direction provided to DLCD in HB 5006 (2021 Session) and HB 5202 (2022 Session).

HB 5006 (2021 legislative Session), Section 136:

Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Land Conservation and Development by section 1 (1), chapter ____, Oregon Laws 2021 (Enrolled Senate Bill 5530), for the biennium beginning July 1, 2021, for the planning program, is increased by \$1,306,912 to study and make legislative recommendations on the incorporation of a regional housing needs analysis into state and local planning programs.

HB 5202 (2022 legislative Session), Section 444:

Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Land Conservation and Development by section 1 (1), chapter 438, Oregon Laws 2021, for the biennium ending June 30, 2023, for the planning program, is increased by \$150,000 to support work on regional housing needs and land supply issues.

Note: As the chair of the House Committee on Housing, Representative Fahey submitted [testimony outlining the specific issues](#) this work should address.

This outline provides high-level summaries of the types of changes needed to implement specific recommendations in the [OHNA Draft Recommendations Report: Leading with Production](#), incorporating additional feedback provided after the draft report publication from stakeholders, including both the OHNA and Housing Capacity Work Groups. This outline does not include specific statutory or bill language, but it provides general direction on the substantive statutory changes, agency direction, and appropriations necessary to implement the recommendations. Once refined, this document will be advisory to legislative Counsel, who will ultimately draft bill language.

In combination with significant investment and coordination at the state level to support housing production, these recommendations are intended to provide a robust and comprehensive approach to Oregon's housing supply crisis. They include comprehensive, system-wide reforms needed to reverse decades of underinvestment in housing production and development readiness, strategies to organize our land use planning systems toward the common goal of housing production, and pathways to redress disparities in housing outcomes.

*Please note: Some of the recommendations, especially those related to funding and governance, require substantial legislative judgement that is beyond agency expertise and the statutorily-defined scope of this report. This document will indicate where there is ambiguity on policy requiring legislative deliberation and decision-making with three asterisks. ****

For ease of navigation, this draft includes a table of contents with page links

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Recommendation 1 – Plan for what’s needed

Recommendation 1.1 - Implement an OHNA methodology to provide a consistent, statewide data source for local housing planning

Context: To implement this recommendation, the Legislature would need to establish a statute that tasks an agency, likely either Oregon Housing and Community Services or the Office of Economic Analysis, with regularly completing a methodology estimating and allocating housing need and establishing a process by which that agency establishes and periodically updates the methodology. Additionally, to establish this methodology as the basis for local housing planning, the “needed housing” statute (ORS 197.303) would need to be updated to clarify that the methodology will allocate the number and affordability of units to local jurisdictions and that the jurisdictions must plan for housing types, characteristics, and locations that address need.

In addition to this baseline, there are several refinements that stakeholders have raised with regard to the “needed housing” statute included in these recommendations, such as considering housing needs for historically marginalized communities, including communities of color and people with disabilities.

Potential statutory changes:

New statute – Oregon Housing Needs Analysis

Please note: This section only includes the 20-year estimation of need. The next recommendation will discuss the “housing production dashboard” and equity indices.

Specify that Oregon Housing and Community Services or Office of Economic Analysis, in consultation with the Department of Land Conservation, must annually conduct an analysis estimating housing need for the entire state, including the following:

- An estimate of needed housing for the state and data regions within the state, including:
 - The total number of housing units needed to accommodate anticipated populations in a region over the next 20 years;
 - An estimate of existing housing stock;
 - An estimate of housing underproduction;
 - An estimate of housing needed for people experiencing homelessness; and
 - An estimate of housing units expected to be removed from existing housing stock due to second and vacation home demand.
- An allocation of needed housing identified in a data region to cities and counties, in consideration of:
 - Population growth;
 - Regional job share; and
 - An equitable distribution of needed housing.
- Housing need reported by income category. In the refined OHNA methodology, these categories were adjusted to better align with existing subsidized affordable funding criteria, including:
 - Extremely low income – Less than 30% median family income (MFI)
 - Very low income – Between 30-60% MFI
 - Low income – Between 60-80% MFI
 - Moderate income – Between 80-120% MFI
 - High income – Greater than 120% MFI
- Annual updates to the estimates to best reflect current data.
- A process to update the methodology for calculating housing need once every decade to align with changes in the decennial Census. This will include administrative rulemaking to establish

specific methodological details. The process to develop the methodology must include the following:

- Consideration of best practice for estimating housing need in consultation with housing data and policy experts;
- Consultation with affected state agencies, cities, counties, regional, and tribal governments;
- Engagement with consumers and producers of needed housing;
- A review and comment period of no less than 90 days for the proposed methodology, with notice to stakeholders and the general public;
- Outreach and engagement may occur in consultation and partnership with the Department of Land Conservation and Development; and
- The final adopted methodology is not a land use decision and not subject to further review or appeal.

ORS 195.033 and ORS 195.036 – Area Population Forecasts

Area population forecasting will continue to be conducted by the Population Research Center at Portland State University and, for the Portland Metro region, the Metro Regional Government. However, recognizing refinements to better incorporate consideration of historically marginalized communities, these entities must incorporate the following into the forecasting program:

- Race and ethnicity;
- Disability status; and
- A population forecast for tribal lands, where applicable,

ORS 197.303 – Needed Housing

Refinements to the “needed housing” statute are necessary to implement the OHNA as the basis for 20-year housing need that jurisdictions respond to via Housing Capacity Analyses (ORS 197.296 and 197.297) and Housing Production Strategies (ORS 197.290). Additionally, the refinements should better incorporate planning for diverse housing types and characteristics, more specific considerations of demographics and the effect of second/vacation homes, and accessibility features as a specific characteristic that jurisdictions consider. Refinements to the “needed housing” statute should:

- Clarify that jurisdictions will be responding to housing allocations provided via the OHNA and must plan housing types and characteristics based on local factors affecting need;
- Clarify that the income categories that cities plan for must align with the OHNA allocations by income;
- Broaden the list of needed housing types to plan for a broader range of housing types, including specific reference to middle housing;
- Clarify that “household demographics” includes, but is not limited to:
 - Race and ethnicity, including applicable population projections;
 - Disability status, including applicable population projections; and
 - Student population, if applicable;
- Clarify that local governments must also consider non-need factors that affect housing need, including the loss of needed housing to second and vacation homes; and
- Incorporate more specific provisions related to the consideration of the accessibility of housing, including:
 - Clarify that the definition for “accessible” means housing that complies with federal accessibility guidelines implementing the Fair Housing Amendments Act of 1988, 42 U.S.C. 3601 et seq., as amended and in effect on January 1, 2023, including but not limited to the Fair Housing Accessibility Guidelines; or guidance implementing Title II and

III of the Americans with Disabilities Act, including but not limited to the 2010 ADA Standard for Accessible Design;

- Clarify that the availability of “accessible” housing opportunities “for persons with a variety of disabilities, including ‘Accessible units’ and ‘Type A units’”¹, is “a matter of statewide concern”, including for both market rate and subsidized affordable housing;
- Clarify the definition of “needed housing” include “features that are accessible to households within the county that include individuals with a variety of disabilities, including but not limited to households with an individual who requires housing with mobility features or communication features, or those that require the heightened accessibility features of an ‘Accessible unit’ or a ‘Type A unit’”; and
- Add that “needed housing” includes among the list of housing types, housing with ‘Accessible units’ and ‘Type A units.’

Agency direction:

- Direct the implementing agency for the OHNA adopt administrative rules on conducting and revising the OHNA methodology; and
- Direct DLCD to develop guidance on housing feasibility assumptions that jurisdictions can use in translating their OHNA housing estimates into housing types and characteristics based on local economic and demographic factors.

Appropriation:

- Create a new section in bill to provide for an appropriation of staff and funding to OHCS/OEA to support rulemaking and regularly conducting the analysis.
- DLCD’s appropriation to support implementation (included in Recommendation 1.3)

Recommendation 1.2 – Establish housing production targets and equity indicators for cities above 10,000 population

Context: To implement this recommendation, the new statute implementing the Oregon Housing Needs Analysis would also need to include the establishment of production goals, programmatic tracking of local progress towards those goals, and regular tracking of housing outcomes more broadly.

Potential statutory changes:

New statute – Oregon housing needs analysis

In addition to the estimating and allocating 20-year housing need, the methodology must also include a periodic assessment and comparative analysis of housing outcomes in local jurisdictions, including:

- A “Housing Production Index” that provides targets for total housing production and subsidized affordable housing production in cities above 10,000 population;
 - Targets must reflect a six-year horizon for local governments in the Portland Metropolitan area (Metro) and an eight-year horizon for local governments not within the Portland Metropolitan area.

¹ There are three levels of accessibility that can be required in a dwelling unit or sleeping unit: Accessible units, Type A units and Type B units. The requirements for an Accessible unit are more restrictive than either a Type A unit or a Type B unit. Read more here: <https://www.oregon.gov/bcd/codes-stand/Documents/whitepaper-2012-dwellunitcomparison.pdf>

- A “Housing Production Dashboard” that provides an annual assessment of local jurisdiction progress towards total and subsidized affordable targets, including a comparative analysis of local jurisdiction progress in comparison to the region and other local governments with similar market typologies.
 - Production data will be derived from permit and certificate of occupancy data reported to DLCD by cities above 10,000 population as well as information on subsidized affordable housing published in the Oregon Affordable Housing Inventory by OHCS. Other data sources may be used in the future, if available.
- A “Housing Equity Indicator” report that provides regular information on a variety of housing and equity-related outcomes. These are not targets; they are provided to inform local policy decisions and reduce local analytical burden. While specific measurements are contingent on data availability, this report must reflect priorities established by the Legislature. This could include the following types of data:
 - Housing outcomes, such as cost burden, tenure, housing condition, etc. for various demographics, such as race/ethnicity, disability status, English proficiency, and age;
 - Information on housing types produced and overall land efficiency of housing production by city;
 - Accessibility of existing or new housing stock (*please note: this data does not yet exist and is contingent on improvements in data collection at local government and other state agencies*);
 - Risk of gentrification and displacement;
 - Housing segregation by race and income; and
 - Factors that affect climate and natural hazards resiliency.

Oregon Laws 2018, Chapter 47 (HB 4006; 2018 Session) – Housing Reporting

To regularly track production outcomes, there will need to be several refinements to current reporting requirements to ensure the data is appropriate for this purpose, including:

- Clarifying existing reporting requirements for cities above 10,000 population, including:
 - Better distinguishing “multi-family residential units” from “middle housing” as defined in ORS 197.758;
 - Clarify that “regulated affordable residential units” only includes units that would not otherwise be captured on the Oregon Affordable Housing Inventory and reports by income bins to the best of available data;
 - Inclusion of “Accessible units” and “Type A units” in regular reporting;
Note: This will require guidance from Building Codes Division on how best to capture and report this information. Additionally, this will require follow-up work to ensure building permit systems capture and are able to report accessibility.
- Requiring DLCD to submit production data to the implementing agency for the OHNA by June 1 of each calendar year for the purpose of incorporating into analysis;
- Requiring OHCS to incorporate affordability data reported by cities to DLCD into the Oregon Affordable Housing Inventory; and
- Enabling OHCS to fulfill its ‘severe rent burden’ reporting requirements as part of the “Housing Equity Indicator” report.

ORS 197.178 – Development Application Reporting

To reduce unnecessary reporting burden for local jurisdictions, repeal this statute.

Context: ORS 197.178 is an older and often overlooked local reporting requirement to DLCD. It requires cities to report specific types of housing applications (“quasi-judicial” applications) to DLCD. Since the

advent of “clear and objective” statutory requirements for housing development, the use of quasi-judicial applications has significantly diminished. With HB 4006 reporting providing much more useful data on overall housing production, ORS 197.178 places additional reporting burden on local jurisdictions with little tangible benefit in terms of reporting and measuring outcomes.

Agency direction:

- Included in Recommendation 1.1

Appropriation:

- Included in Recommendation 1.1

Recommendation 1.3 – Emphasize community-led and actionable Housing Production Strategies (HPSs) that promote equitable housing production and overcome locally specific development barriers

Context: To implement this recommendation, the Legislature would need to make several refinements to implementing statutes for the Housing Production Strategy (HPS) to strengthen its role, better clarify actions that local jurisdictions take to respond to identified housing need, and establish a formal system of partnership between state and local government to identify and implement policy and funding interventions that support production.

This includes a refinement to statute that both streamlines the UGB amendment process and clarifies and strengthens actions adopted in the HPS: enabling a city to establish timelines for the adoption and implementation of “efficiency measures”, which are traditionally implemented as part of a Housing Capacity Analysis, as part of the Housing Production Strategy.

Statutory changes:

ORS 197.290 – Housing Production Strategy

Clarify that the adoption of “efficiency measures” in the Housing Production Strategy includes a timeline for adoption and implementation. Better clarify the connection between the HPS, actions that cities take to promote housing production, and “unmet housing need”.

Please note: Recommendation 2.2 includes refinements that incorporates “housing choice for all” in the implementation of the Housing Production Strategy.

ORS 197.293 – Unmet Housing Need

Many stakeholders have submitted testimony that the accountability framework articulated in the draft report is poorly defined and highlight the need for clarity in how underperformance will result in corrective actions to address need.

Currently, ORS 197.293 includes direction for LCDC to adopt criteria to review cities that “have not sufficiently... achieved production of needed housing within their jurisdiction”. This statutory direction will need to be refined and revisited in light of the implementation of the OHNA to ensure that there is a meaningful response to housing underproduction, including meaningful local policy interventions and state partnership, coordination, and support in working towards better housing outcomes.

Please note: Changes to this statute are not yet well-defined. Adjustments to this statute will be a focus for discussion at the joint Work Group meeting on October 20, 2022.

ORS 197.296 (6), (7), (8), and (9) – Efficiency Measures

Enable a city to establish timelines in the Housing Production Strategy for the adoption and implementation of “efficiency measures” and broaden the scope of efficiency measures to focus more explicitly on supporting production of and minimizing cost and delay to diverse housing options and locations.

Clarify in statute, where adoption of “efficiency measures” are required by statute, that a city may meet this requirement by demonstrating the timely adoption of efficiency measures from their previously adopted Housing Production Strategy, instead of concurrently with the adoption of a Housing Capacity Analysis and UGB amendment.

Agency direction:

- Direct LCDC and DLCD to adjust existing administrative rules to provide significant clarification with regard to “unmet housing need”, strengthening of the Housing Production Strategy, and implementation of “efficiency measures” in the Housing Production Strategy. The resultant rules will establish a clearer accountability framework as it intersects with the “Housing Production Dashboard” in the OHNA. Additionally, the rules will better recognize a broader range of actions local governments can take to support diverse housing production and land readiness. Implementation of this recommendation would also “credit” jurisdictions that have implemented recent legislative and Gubernatorial direction on housing, carbon emission reductions, and wildfire.

Appropriation:

- Fulfillment of DLCD’s Agency Request Budget - \$2.5 million per biennium in technical assistance to local jurisdictions, \$1,074,423 to support research and rulemaking, three new agency staff to support rulemaking and implementation.

Recommendation 1.4 – Streamline land capacity and urbanization processes to expedite well-planned expansions that support housing production

Context: To implement this recommendation, the Legislature would need to make refinements to existing statutes related to buildable lands inventories and urbanization and provide direction and resources to DLCD to amend implementing rules related to housing capacity analyses and urbanization and provide direct support and resources to jurisdictions performing urbanization-related work.

Statutory changes:

ORS 197.296 – Buildable Lands Inventory

Make adjustments that reflect a more accurate 20-year supply of land and minimize the inclusion of “phantom” capacity (i.e. hypothetical capacity that is unlikely to be realized), including:

- Resetting the 20-year planning period should an HCA be remanded back to the city by LUBA or other body;
- Reclassification of “partially vacant lands” of less than two acres as “infill or redevelopment”;
- Enable rezoning or permitting housing on underutilized lands zoned for employment uses without triggering an Economic Opportunities Analysis or Transportation System Plan update;
- Increased local ability to plan for housing types commensurate with existing and future need, rather than predominately by past development trends;

- Clarification that changes to projected residential capacity resulting from changes to permitted capacity (e.g. rezoning, allowing more uses in a zone) must be based on past development trends or utilize the 3% capacity assumption already provided in statute; and
- Clarify that “market factors that may substantially impact future urban residential development” must have a reasonable basis in economic analysis or quantifiable validation.

ORS 195.175 – Urban Reserves

Clarify urban reserves timeframe may simply be up to a 50-year supply of land and may be designated independently of an UGB amendment, rather than being required to plan for a 10- and 30-year supply of developable land beyond the 20-year urban growth boundary amendment (ORS 195.145(4) and OAR 660-021-0030). This will have the effect of enabling jurisdictions to complete this analysis independently of a UGB amendment.

ORS 197A.320 – Priority of lands to include in an urban growth boundary (non-Metro cities)

Clarify that Urban Reserve lands are the highest priority of lands for inclusion in a UGB for a non-Metro city, and that exceptions and non-resource lands are second priority. This aligns with the priority statute for Metro (ORS 197.298) and provides greater certainty to a jurisdiction pursuing urban reserves that such lands will be first included in the UGB, rather than potentially-constrained exception or non-resource lands.

ORS 195.141 - Rural Reserves

Enable non-Metro jurisdictions to cooperatively establish rural reserves, similar to urban reserves. While rural reserves are not always necessary or desirable, they can be helpful in facilitating urban reserve planning by providing greater certainty as to which lands will remain rural and which lands will be urbanized over time.

New statute - Small-scale UGB Amendment

**** Please note: This policy option is the least well-defined and most contentious among members of the Housing Capacity Work Group. Whether this or a similar policy should be advanced is a legislative decision. Implementing a small-scale UGB amendment option raises substantial policy questions that will require legislative deliberation and decision-making. ****

In recognition of that, this section does not recommend a specific policy approach. Instead, it provides general policy considerations should the Legislature pursue this option to improve its implementation, effectiveness, and political viability. Specific considerations will be outlined in the final Housing Capacity recommendations and report submitted to the Legislature.

Establish a streamlined Goal 10 and Goal 14 regulatory pathway for cities, especially small, capacity-constrained cities, to amend a UGB to support housing production that is affordable and/or achieves state housing priorities. While this document does not include a specific policy recommendation, staff recommends incorporating the following considerations to any such proposal to improve implementation, effectiveness, and political viability, should the Legislature decide to pursue such a policy:

- A requirement for deed restriction guaranteeing delivery of affordable and diverse housing options in exchange for regulatory flexibility. The Legislature would need to determine the types of housing outcomes that the pathway should require. Examples include:
 - Regulated affordable housing for low-, moderate-, and mixed-income housing.
 - Diverse housing options the market is unlikely to produce, including manufactured, middle, and multi-family housing.
- Regulatory streamlining that reduces the analytical burden for a local jurisdiction utilizing the pathway. Example approaches include:

- An “analysis waiver” approach, in which small jurisdictions with constrained planning capacity submitting qualifying proposals would not be required to prepare Goal 10 or Goal 14-related analysis for limited UGB amendments, subject to a cap on the number of UGB amendments within a 5-year period.
- A “shifted burden” approach, in which submittal of a qualifying project triggers a requirement for DLCD to conduct a limited Goal 10 and 14 analyses within a specified timeframe.
- A “limited analysis” approach, in which a subset of jurisdictions identified as facing significant growth and affordability challenges under the OHNA qualify for a limited site alternative analysis, weighing priority and locational factors for several potential development areas.
- Any such policy must include limitations on the scope, scale, and applicability of the pathway. Examples include:
 - Jurisdiction applicability, considering:
 - Population – The policy should provide an additional option to small jurisdictions with limited staff capacity and resources, not to larger jurisdictions that are able to pursue a standard UGB amendment.
 - Population growth and cost burden – With the implementation of an OHNA, it is possible to measure and identify fast growing communities facing significant cost burden, enabling the option in communities where it is most needed
 - Geographic or regional limitations – The policy should exclude areas with significant concerns about the loss of resource lands, such as the Willamette Valley.
 - Frequency of use – The policy should have a limit on the frequency of use to ensure it does not overwhelm staff capacity or bypass the standard urbanization process.
 - Site applicability, considering:
 - Site size – There should be some upper acreage threshold for qualifying projects included in the policy. Examples of commonly suggested acreage thresholds include up to 50 or up to 100 acres.
 - Resource land exclusion – The policy should prohibit the inclusion of high-value farmland lands from the pathway and consider requiring a streamlined Goal 14 priority analysis. As discussed previously, the policy should consider excluding geographic areas where preservation of resource lands are a higher priority.

Agency Direction:

- Direct DLCD and LCDC to adopt rules to provide jurisdictions more methodological options to complete buildable lands inventories efficiently and with legal certainty, including capacity-related assumptions as applied to land in a variety of market and regulatory contexts.
- Direct DLCD and LCDC to adjust existing rules related to urbanization, including UGB land swaps and Urban Reserves to provide greater flexibility, options, and procedural certainty for jurisdictions pursuing UGB amendments or related work.

Appropriation:

- Create a new section in bill to provide for an appropriation of staff and funding to support rulemaking and related research, direct funding support to local jurisdictions, and new agency staff focused on urbanization and public facilities planning, in addition to the Agency Request Budget in Recommendation 1.3.

Recommendation 2 – Build what’s needed, where it’s needed

Recommendation 2.1 – Commit resources for housing production, affordable housing production, and development readiness, including infrastructure funding

Context: As indicated in the draft recommendations, achieving greater production, affordability, and equity in outcomes will require substantial and sustained investment from the Legislature. This will require a statewide conversation around the amount and types of investments made in housing production, how to source that investment, and how to distribute funding through state agencies or administrative mechanisms. To advise this conversation, this document will focus on the types of investments that the Legislature should focus on. In addition to this, the project team is currently working on a draft analysis to better inform discussions on the amount of sustained investment required.

**** Please note: The amount and type of investment, how to source funding, and how to distribute funding is not well-defined in the draft OHNA recommendations and will require significant legislative discussion and decision-making ****

Appropriation:

Commit sustained investment in the production of housing that the market is unlikely to produce on its own, including the following types of investments:

- Infrastructure and development readiness;
- System development charges (SDCs);
- Gap funding and loan guarantees for affordable and diverse housing options;
- Funding for implementing fair housing strategies, including homeownership, unit accessibility, and reducing discriminatory practices; and
- Technical assistance and local capacity building.

Please note: Oregon Housing and Community Services has submitted an agency request budget to support significant investment in affordable housing production, homeownership, and preservation. Any investment from the Legislature in housing production should be in addition to, and not in lieu of, this agency request budget.

Recommendation 2.2 – Use Housing Production Strategies to enable housing choice for all and advance fair and equitable housing outcomes.

Context: To implement this recommendation, the Legislature would need to adopt amendments to the Housing Production Strategy statute (ORS 197.290) to clarify an explicit legislative intent to further “housing choice for all” and ensure that the HPS incorporates such considerations holistically, in alignment with current administrative rule.

Statutory changes:

ORS 197.290 – Housing Production Strategy

- Clarify in statute that actions identified in a housing production strategy must promote housing choice for all and affirmatively further fair housing, including alignment with other related work cities already conduct, such as federal fair housing requirements.
 - “Housing choice for all” means diverse, quality, physically accessible, affordable housing choices with access to economic opportunities, services, and amenities.
 - “Affirmatively furthering fair housing” means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity

replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

Agency Direction:

- Included in Recommendation 1.3

Appropriation:

- Included in Recommendation 1.3

Recommendation 3 – Commit to working together with urgency

Recommendation 3.1 – Develop a mechanism for state agency collaboration and accountability, to make rapid progress toward housing production goals, and evaluate options for longer-term administrative structures

Context: As indicated in the recommendation report, establishing an administrative structure to coordinate state agencies warrants careful consideration weighing the advantages and disadvantages of different administrative structures, while navigating shifting authority and responsibility between different functions of state government. This requires a broader discussion on a coordinated administrative structure in state government.

However, while this discussion occurs, the report also calls for the establishment of an interim “Housing Production Team” with a charge to identify policy and funding interventions that support production and address development barriers.

**** Please note: This recommendation requires substantial legislative judgment on the administrative structure, the process to establish such a structure, and the scope/direction of any interim housing production support or coordinating work. ****

It is possible that, while the recommendation calls for a statewide process to establish a long-term administrative structure, the Legislature may seek to establish a permanent administrative structure in the 2023 Legislative Session. In recognition of that possibility, this document outlines implementation considerations for legislative consideration.

Agency Direction:

- Establish a task force to develop legislative recommendations for a housing cabinet comprised of agency directors who can develop criteria, score projects, and award funding designed to facilitate the production of middle housing in accordance with the state's climate, equity, and housing production goals. Potential members could include, but are not limited to:
 - The Governor's Office, including Regional Solutions Team;
 - Oregon Housing and Community Services;
 - Department of Land Conservation and Development;
 - Department of Administrative Services – Oregon Office of Economic Analysis;
 - Oregon Department of Transportation;
 - Department of Environmental Quality;
 - Business Oregon;
 - Bureau of Labor and Industries;
 - Oregon Health Authority;
 - Department of Human Services – Office of Developmental Disabilities Services; and

- Department of Consumer and Business Services.
- The recommended administrative structure must have sufficient authority to support the cabinet in its efforts and simultaneously stand-up and administer a housing program with adequate staff, contracting, fiscal and accounting, IT, and outreach capacity in accordance with best practices. The administrative agency should provide specialized housing production expertise to local partners, and direct funding for housing and public infrastructure.
- Direct DLCD, OHCS, **or** another entity to designate an interim “Housing Production Team.” Additional agencies may be asked to provide additional staff to assist with the following duties:
 - Provide technical expertise to address specific site development challenges or policy questions in partnership with local governments;
 - As an accountability and review team, oversee progress toward goals in HPSs and recommend policy or funding interventions in coordination with other state agencies (ODOT, DEQ, Business OR, etc.) needed to increase production; and
 - This interim team should be transferred to the resultant administrative structure that the task force recommends.

Appropriation:

- Create a new section in bill to provide for an appropriation of staffing to support task force process and interim Housing Production Team

Recommendation 3.2 – Direct state agencies and Metro Regional Government to develop a version of a Housing Production Strategy articulating regional housing production targets and describes contributions to partnerships with local jurisdictions

Context: To implement this recommendation, the Legislature would need to adopt new statutory language requiring Metro Regional Government and the state administrative entity identified in Recommendation 3.1 to regularly complete a Housing Production Strategy, identifying policy and funding interventions necessary to support housing production and work towards targets established by the Oregon Housing Needs Analysis.

Please note: For organizational purposes, this recommendation is organized to separate a state-adopted HPS from a Metro-adopted HPS.

Statewide

****Please note: Because the state administrative entity needed to implement a statewide HPS does not exist, it is not yet possible to implement this recommendation in statute. This recommendation requires the task force in Recommendation 3.1 to include incorporation of a statewide HPS.****

Agency Direction:

- Require the task force described in Recommendation 3.1 to include recommendations to incorporate a statewide housing production strategy in statute.

Appropriation:

- Included in Recommendation 3.1

Metro Regional Government

Statutory changes:

ORS 197.290 or new statutory provision – Metropolitan area housing production strategy

- Require the Metro, once every six years in alignment with their Regional Growth Management Process, to complete a Housing Production Strategy articulating regional housing need and production targets and outlining the tools, actions, and policies the regional government plans on implement to facilitate housing production.

Agency Direction:

- Potential conforming rulemaking at DLCD to align with the implementation of a Metro-wide HPS.

Appropriation:

- Clarification that Metro may access the same funding that local jurisdictions access under DLCD local government planning assistance funding.