

# HOUSING CAPACITY WORK GROUP

## MEETING PACKET #3



**TO:** Housing Capacity Work Group Members

**FROM:** Sean Edging, Housing Planner

**SUBJECT:** Housing Capacity Work Group Meeting Packet #3

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Housing Capacity Work Group (HCWG) Members,

Thank you for a great discussion at the second HCWG meeting. The second meeting included an overview and facilitated discussion surrounding housing mix and buildable lands inventories. Meeting notes and a summary of major discussion themes can be accessed [here](#).

Our second HCWG meeting will focus on efficiency measures and establishing the need for an Urban Growth Boundary adjustment (UGB). This meeting will begin with an overview of efficiency measures, challenges and potential solutions related to efficiency measures, and facilitated discussion. Discussion will also provide opportunity to make broader suggestions on each necessary component (housing need, buildable land inventories, and efficiency measures) for establishing the need for UGB adjustments.

Below, you will find a packet of materials to help you prepare for the HCWG meeting scheduled for **Thursday, June 30, 2022 from 1 - 4pm**. Please note this meeting will be held virtually over Zoom.

Non-work group members can observe the meeting at the following link:

<https://us02web.zoom.us/j/88329177182?pwd=SEZ2WnJib2pxcHhvbjBqRkN2QkUyZz09>

Meeting ID: 883 2917 7182 | Passcode: 455256

### **Housing Capacity Work Group Meeting Packet #3 Materials List:**

1. Meeting Agenda (pg 3)
2. Meeting 2 Summary Notes (pg 5)
3. Draft Housing Needs Work Group Meeting 4 Summary Notes (pg 15)
4. Content Review Materials:
  - Memorandum summarizing statute and administrative rule excerpts related to efficiency measures and Housing Production Strategies. (pg 23)
  - Sample efficiency measures from OAR 660-038-0190 (pg 29)

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 Capacity Work Group Meeting #3

June 30, 2022 | 1pm – 4pm

By [Zoom Web Conference \(Observer Link\)](#)  
Passcode: 455256

### Project 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 a defined and narrow set of Urban Growth Boundary (UGB) issues as they relate to the implementation to the Regional Housing Needs Analysis (RHNA). As the chair of the House Committee on Housing, Representative Fahey submitted [testimony](#) outlining the specific issues these discussions should address, including:

- How land within Urban Growth Boundaries (UGBs) can be better utilized to increase housing types and units, including the reduction of restrictive or outdated zoning regulations and the appropriate conversion of commercial and employment uses to residential use.
- How the process and level of data necessary to establish the need for UGB adjustments can be streamlined, while considering the protection of resource lands.
- How the regulatory review of UGB adjustments can be streamlined, while considering the protection of resource lands.
- How to fund additional capacity in cities below 10,000 to plan for and work to facilitate the development of housing in their communities.

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

### Meeting Goals

- Provide an update on the process, including a reminder of process parameter and scope
- Facilitate break-out discussion intended to solicit feedback and proposals to address issues related to efficiency measures, including opportunities to implement efficiency measures via the new Housing Production Strategy requirement implemented in 2019.
- Facilitate round table discussion to solicit other suggestions related to the establishment of need for a UGB adjustment, including the three major components discussed thus far: housing need, buildable lands inventory, and efficiency measures.

## Housing Capacity Work Group Meeting #3 – Proposed Agenda

Time	Topic	Who
1:00-1:15p	<b>Welcome and Agenda Overview</b> <ul style="list-style-type: none"> <li>Review agenda and recap purpose of meeting</li> <li>Structure of the discussion and rules of engagement</li> </ul>	<i>Jamie Damon, Kearns &amp; West (facilitator)</i>
1:15-1:25p	<b>Work Group Update</b> <ul style="list-style-type: none"> <li>Reminder on process parameters and scope</li> <li>Housing Needs Work Group Update                             <ul style="list-style-type: none"> <li>Member report out</li> </ul> </li> </ul> <i>Materials: Housing Needs and Capacity Work Group Meeting Notes</i>	<i>Sean Edging, DLCD</i>
1:25-2:45p	<b>Efficiency Measures and the Housing Production Strategy</b> <ul style="list-style-type: none"> <li>Overview of existing statutory framework and specific issues                             <ul style="list-style-type: none"> <li>What is an “<i>Efficiency Measure</i>” - ORS 197.296</li> <li>Intent and Implementation – Legislative Direction                                     <ul style="list-style-type: none"> <li>Removal of outdated zoning regulations</li> <li>Appropriate rezoning of employment to residential lands</li> </ul> </li> <li>Lack of clarification around expectations – outcomes between different communities</li> <li>Recent state direction on housing (HB 2001 and Climate Friendly and Equitable Communities Rulemaking)</li> <li>Housing Production Strategy overview                                     <ul style="list-style-type: none"> <li>Opportunities for alignment with efficiency measures</li> </ul> </li> <li>Proposals and Ideas to Prompt Discussion</li> </ul> </li> <li>Discussion (Break-out Groups)</li> <li>Group report out</li> </ul> <i>Materials: Context Memorandum – Efficiency Measures and the Housing Production Strategy</i>	<i>Sean Edging Jamie Damon</i>
2:45-3:50p	<b>Establishing Need for UGB Adjustment</b> <ul style="list-style-type: none"> <li>Review of Housing Need, Buildable Lands Inventory, and Efficiency Measures, including potential approaches for streamlining</li> <li>Discussion (Round Table)</li> </ul>	<i>Sean Edging Jamie Damon</i>
3:50p-4:00p	<b>Recap and next steps</b> <ul style="list-style-type: none"> <li>Recap key discussion points and any requests or questions that need follow up</li> <li>Reminder of next steps, upcoming Work Group meetings, and other opportunities for feedback</li> </ul>	<i>Jamie Damon</i>

# Housing Capacity Working Group - Meeting 2

May 23, 2022

Meeting Notes

(Published June 3, 2022)



## **Staff and Working Group**

### **Members**

Sean Edging, DLCD  
Ethan Stuckmayer, DLCD  
Mari Valencia-Aguilar, DLCD  
Gordon Howard, DLCD  
Emma Land, DLCD  
Ingrid Caudel, DLCD  
Matt Lawyer, Marion County  
Board of Commissioners  
Peggy Lynch, League of  
Women Voters  
Jeff Adams, City of Cannon  
Beach  
Jonathan Trutt, Home  
Forward  
Brian Rankin, City of Bend  
Mary Kyle McCurdy, 1000  
Friends of Oregon  
Heather O'Donnell, City of  
Eugene Planning Division  
Kathy Wilde, Housing Land  
Advocates  
Justin Peterson, Oregon  
Cascades West Council of  
Governments

Chris Faulkner, Clean Water  
Services  
Yiping Fang, Portland State  
University  
Ted Reid, Metro  
Brian Latta, City of Dallas  
Emily Reiman, DevNW  
Garet Prior, Wilsonville  
Alliance for Inclusive  
Community  
Bill Van Vliet, Network for  
Oregon Affordable Housing  
Al Johnson, Retired Land Use  
Attorney  
Peter Gutowsky, Deschutes  
County Community  
Development  
Michael Burdick, Association  
of Oregon Counties  
Kaarin Knudson, Eugene –  
Better Housing Together  
Stacie Standers, Housing  
Oregon  
Anneliese Koehler, Metro

Ariel Nelson, League of  
Oregon Cities  
Jeremy Rogers, Oregon  
Realtors (*represented by  
Brock Nation*)  
Samantha Bayer, Oregon  
Homebuilders Associations  
Allan Lazo, Fair Housing  
Council  
Brian McDowell, Business  
Oregon  
Mary Anne Cooper, Oregon  
Farm Bureau  
Rian Hooff, Oregon  
Department of  
Environmental Quality  
(ODEQ)  
Dave Hunnicut, Oregon  
Property Owners Association  
Lucia Ramirez, ODOT

## **Key Insights Summary**

**There are significant limitations to relying heavily on past projections** - Basing future market feasibility off past production poses constraints on allocating an appropriate supply of affordable housing that meets current need. Using past projections can undercut the ability to properly develop strategies for building affordable housing in the future due to shifts in affordable housing best practices, construction prices, etc. Clarifications to statute that broaden and shift planned housing mix over time and consider other relevant factors, such as second home demand, will help reduce this dynamic.

**Refinements to Buildable Land Inventories (BLIs) can increase accuracy and simplicity** – BLIs often have tension between a desire for accuracy as well as a desire for ease and certainty. Refinements to statute and administrative rule on BLIs, including bolstering safe harbor assumptions for methodological assumptions, could both increase the accuracy and ease of conducting a BLI. Additionally, providing state resources and support to conduct BLIs, including funding and data resources, can help jurisdictions conduct analyses regularly.

**Various constraints can impede land readiness for development** – There are multiple factors that can impede whether land is actually developable, many of which are not directly within the control of local governments, including ownership, speculation, parcelization, hazard/environmental constraints, and infrastructure availability. These point to needed adjustments in BLIs to account for these factors, and in certain cases, a UGB land swap could be an appropriate tool to remove land unlikely to develop from the UGB. Members also suggested that various non-land use policies need refinement to enhance land readiness for development, such as taxation, infrastructure, and state investment.

**Zoning restrictions impede development of affordable housing** - Single family zoning, form-based codes, and design overlays significantly inhibit the ability to efficiently develop sizeable amounts of affordable units. Much of the land that is seen as developable within a UGB is zoned solely for low-density development with lot size minimums and this hinders the diversity of land necessary for developing multiple housing options. Housing needs analyses and implementing codes need to allow for a much greater variety and flexibility of housing options that can respond to changing market conditions and household needs. Building zone changes, including for commercial lands, more deliberately into this process can help address this dynamic.

**Developable land is important but not the only factor affecting affordability** - Finding developable land upon which to build housing must be viewed in relation to the availability of necessary utilities, infrastructure (including non-motorized transit networks), public transit connectivity, and schools. Finding available land that properly meets these requirements can be challenging, as often the best-integrated parcels are allocated for commercial use. This could additionally indicate the need to consider land that is not residentially zoned but still developable for housing.

**Increasing affordability of market-rate development** – Encouraging the use of various incentives, particularly tax incentives or density bonuses, could be an effective way to develop middle housing and engage large-scale developers in addressing housing need.

## **Meeting Notes**

*Meeting Outcome – Facilitate discussion intended to solicit feedback, proposals, and ideas to address issues related to housing mix and buildable lands inventory*

### **Update and Context Reminder**

DLCD's direction from HB 5202 includes:

- 1) How land within the UGB can be used more effectively and efficiently to increase housing types and units, including the reduction of restrictive zoning regulations and the conversion of commercial and employment uses to residential use.
  - 2) How to streamline the level of data necessary to establish the need for UGB adjustments, while considering the protection of resource lands.
  - 3) How to streamline regulatory review of UGB adjustments, while considering the protection of resource lands.
  - 4) How to fund additional capacity in cities below 10,000 to plan for and work for facilitating the development of housing in their communities.
- As a reminder, the Working Group is not seeking to build consensus, but rather bring together a diverse group of participants that can advise DLCD staff on issues specific to housing capacity (as implemented through the Housing Capacity Analysis)
  - Provide a range of perspectives on working with HCAs and Goal 10 and share critiques on staff direction and proposals
  - Integrate and consider input from the Housing Needs Work Group
  - The subsequent meetings will discuss efficiency measures, UGB review process, and building capacity for cities under 10,000

## **Topic 1: Translating Housing Need to Housing Type and Mix**

### **Future Housing Mix**

- Goal 10: *To provide for the housing needs of citizens of the state. Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type, and density.*
  - Begins with a population projection and then the Housing Capacity Analysis (which includes projecting housing need, inventorying buildable lands, and accommodating housing need).
  - In addition, there is a Housing Production Strategy (which includes promoting needed housing, and reflecting, measuring, and reporting)
- A Housing Needs Projection is established by starting with a population projection and local market data, which creates the 20-year Housing Projection
- What jurisdictions are responsible to plan for in terms of housing is known as **needed housing**, which is allocated within **ORS 197.303**. This entails all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need for housing within

a UGB at a variety of price ranges and rent levels that are affordable to households within the county for a variety of incomes

- Needed housing includes
  - Attached and detached single-family housing and multi-family housing for both owner and renter occupancy
  - Government assisted housing
  - Mobile home and manufactured dwellings parks
  - Manufactured homes on individual lots planned and zoned for single-family use
  - Housing for farmworkers
- **ORS 197.303** dictates that a local government should use population projections to adopt findings that take into account the changes in the following factors since the previous HCA. These factors that affect need are:
  - Household size
  - Household demographics
  - Vacancy rates
  - Housing costs
- **ORS 197. 296** highlights that housing capacity must be rooted in data related to land within the UGB that has been collected since the last HCA. Jurisdictions must be responsive to the needs of the communities.
  - The required data metrics include:
    - Number, density, and average mix of housing types of urban residential development that have occurred
    - Trends in density and average mix of housing types of urban residential development
    - Market factors that could impact future urban residential development
    - Number, density, and average mix of housing types that have occurred on buildable lands

#### Identified Issues

- How is need translated into housing type?
  - The intent of Goal 10 and Implementing Statutes is to provide a range of housing options that suit residents needs and financial capabilities. Implementation often does not meet this intent, because future housing mix is heavily categorized by past development trends and is often mismatched to household needs.
- Example – Grants Pass
  - Majority of Grants Pass renters are cost burdened
  - Median housing value is not affordable to most households
  - Majority of future housing will be unaffordable to most residents
  - How do we make the planning responsive to the needs we see in the community?

#### Ideas to Prompt Discussion

- Clarify existing statute to broaden the housing types and characteristics that are planned for
- Clarify existing statute to consider housing feasibility that is affordable to a given income, including past production and market trends
- DLCD/LCDC to be directed to provide safe harbor feasibility assumptions through rulemaking



- Cities can continue to plan for housing types according to local policy priorities/preferences considering statutes

## **Discussion**

*Discussion Goal: How to plan for housing types and characteristics in a manner that is responsive to need and rooted in realistic conditions.*

## **Discussion Questions**

1. The current statutory framework does not sufficiently plan for housing types “commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density”. With the implementation of an OHNA, cities will receive housing needs projections including the total number of units and their affordability thresholds. **How should cities best translate these projections into housing types and characteristics** (e.g. size, accessibility, etc.) and how can that be implemented through changes to statute and administrative rule?
2. In the current framework, past production serves as the main proxy for future market feasibility. This is an important factor in rooting future projections in reality, but it also has the effect of inhibiting the ability to plan for a variety of housing types. How would you propose **clarifying feasibility in market-rate and subsidized affordable development scenarios for different housing types and characteristics?**

## **Discussion Report Out**

### **Group 1 (Brock Nation, Stacie Sanders, Heather O'Donnell, Yiping Fang)**

- Affordable housing developers are constrained by funding availability and zoning restrictions
- Additional detail in provided population projections could provide the necessary detail to calculated housing mix
- A Needs Analysis should not represent a fixed target but rather encourage/remind cities to remain dynamic and adjust based on demand in the process
- Ensuring that housing characterized as affordable remains affordable in response to market and median income changes is essential

### **Group 2 (Bill Van Vliet, Anneliese Kohler, Chris Faulkner)**

- Increasing production costs are changing the type of housing that needs to be subsidized
- Affordable housing and market-level housing are inextricably linked and cannot be solved separately from each other
- Housing Capacity Analyses currently do not consider some of the social aspects of housing need
- Utilizing past projections for future housing capacity has its limitations because building affordable housing in the past will look different from what is built in the future (due to changes in affordable housing best practices, including the increased construction of townhomes and cottages)

### **Group 3 (Justin Peterson, Michael Burdick, Jeff Adams)**

- Utilizing past projections for future housing capacity has its limitations
- Strengthening the statutory language to explicitly include middle housing types could be beneficial

- Some jurisdictions in the State have a secondary market that includes second homes, as they are tourist communities
  - This presents multiple challenges in relation to needed housing. A second home consideration in the HNA would let communities understand the real need
- Incentives could help support the construction of middle housing types along with density bonuses in low-density residentially zoned areas
- Housing planners and policymakers need to better understand the level of subsidy needed to produce affordable housing to have better planning expectations

**Group 4 (Brian Rankin, Garet Prior, Jonathan Trutt)**

- Meeting affordability goals is getting lost in zoning classification limitations, local codes (form-based or otherwise) and housing type
- Lack of incentives do not promote the development of affordable housing
- Housing Needs Assessments and Housing Production Strategies are not as assertive and prescriptive as they could be
- Utilizing past projections for future housing capacity has its limitations

**Group 5 (Peggy Lynch, Brian Latta, Dave Hunnicut, Ted Reid)**

- Historically, cities have not done a very good job addressing extremely low-income housing
- Building housing is not only an issue of land supply but availability of infrastructure and necessary utilities
- Land that has been seen as developable within the UGB is often largely zoned for single-family and tends to have topographical constraints, drainage issues, and complicated infrastructure
  - Farmland (flat, large parcel land) is often easier to develop

**Group 6 (Karin Knudson, Kathy Wilde, Matt Lawyer, Mary Kyle McCurdy)**

- The statutes might not be limiting factors, but rulemaking needs to be more explicit
- Restrictive zoning and lot size minimums inhibit the diversity of land use that is necessary for building affordable units
- Think more creatively about housing types that could exist within development envelope
- Be cognizant of smaller communities and the challenges and limitations in developing housing that come with them
- Need to be humble and realistic and require each county to do some surveying work based on past projections, steering production towards what is needed
- Housing cost estimations are lower than actual cost, math needs to occur to determine what is actually feasible

**Group 7 (Emily Reiman, Al Johnson, Peter Gutowsky, Samantha Bayer, Brian McDowell)**

- Look for ways to engage large property owners to address housing needs in innovative ways. This could be done through developing incentives for property owners to participate in addressing housing challenges
- Cities need more flexibility to address housing needs as current systems in place are onerous, time-consuming, expensive, and subject to litigation
- It's important to dig deeper into demographics and socio economics of communities. Overlay family size with affordability and unit sizes. Consider multi-generational housing needs
- Concern about inflating the cost of single-family housing if further limitations are put in place. Recognize that a state-wide approach doesn't work in all parts of the state

## Topic 2: Buildable Lands Inventory (BLI)

### Overview

- **ORS 197.296** states that a local government should demonstrate that its comprehensive plan or regional framework plans for sufficient buildable lands...for 20 years
  - A Buildable Lands Inventory (BLI) supports this 20-year land supply requirement. A BLI requires a jurisdiction to produce a map showing buildable lands, including vacant, partially vacant, mixed-use, and infill and redevelopment
    - The 20-year land supply requirement also includes removing constrained lands
    - After this, a jurisdiction will estimate future capacity. Development potential of lands that will exist, and assess whether the available land will be developed
    - Within a BLI, there is tension between different goals, we want BLIs to **accurately portray development capacity**, which takes analysis, time, and resources. We are also charged with increasing **ease, certainty, and flexibility** of the analysis.
- Methodological assumptions need to be made to develop a BLI (such as assessing what is partially vacant or not) and this creates significant ambiguity and nuance, and greater accuracy generally requires more complex analysis.
- Local political dynamics play a role in a BLI because they implicate a major policy decision – whether and how a city grows. This puts pressure and can increase cost/delay of BLIs.

### Ideas to Prompt Discussion

- Direct DLCD/LCDC to articulate and refine additional safe harbor methodological options for BLI's through rulemaking, including for constrained lands, infill, etc.
- Clarify in statute that a 20-year planning period “resets” if a Housing Capacity Analysis is remanded
- Enable a “buyer’s remorse” option in administrative rule facilitating a UGB swap for undeveloped land unlikely to develop in the future, that shouldn’t be included in the UGB at all
- Amend statute to base whether measures to accommodate needed housing are required to have alternative metrics that do not require significant analysis

### Discussion

*Discussion Goal: How to address the tension between accuracy, simplicity, and certainty and the local political dynamics that affect the analysis.*

### Discussion Questions

1. Our legislative direction requires reconciling a few conflicting goals. On one hand, we want to ensure that BLIs **more accurately reflect development capability** and avoid including “phantom capacity”, and achieving this accuracy generally requires increasing complexity of analysis. On the other hand, we also want to **reduce local analytical burden and increase certainty** that BLIs will not be challenged. What ways would you suggest reconciling these dynamics?
2. In almost any local context, there will be pressure on the methodological assumptions of BLIs due to the policy implications of the analysis (i.e. whether a city adopts efficiency measures and

adjusts a UGB). How would you suggest **reducing local political pressure and increasing the certainty of policy outcomes?**

**Group 1 (Brock Nation, Stacie Sanders, Heather O'Donnell, Yiping Fang)**

- The accuracy of capacity assumptions can be challenging because the maximum allowed density may not actually play out in practice
- Analysis of partially vacant lands can create phantom capacity, because although the rules require counting partially vacant land, it often isn't likely to develop
- Planning for different housing mix and efficiency measures into the future is difficult to do based off the requirement to base capacity assumptions on past production
- There is tension between empirical analysis and politics. Physical Construction of affordable housing is only one component and developers often contend with the notion of "if we zone/build it, will they come?" The perceptions of the quality of the surrounding built environment (crime, amenities, values, environmental justice/impacts) determine what is "livable" than what is "empirical"
- Amending language and regulations to better support residential infill projects and rezone single-family developments. Improving the ability to be flexible in realizing greater capacity/housing opportunities

**Group 2 (Bill Van Vliet, Anneliese Kohler, Chris Faulkner)**

- Lack of post-hoc analysis of BLI's makes the process more difficult to understand as there is no way of determining whether the analysis conducted was accurate
- In addition to population projections, it could be helpful for PSU to run scenarios on rezoning to see how changes in land use regulations could affect housing development (allow more dense construction or open previously undevelopable lands)
- It may be beneficial to provide a standardized structure for how to conduct a BLI

**Group 3 (Justin Peterson, Michael Burdick, Jeff Adams)**

- Costs to conduct a BLI are expensive and there is a need to streamline and simplify the process
- The State should consider refining some of the land constraints, particularly wetlands  
Constrained lands are not as easy to exclude like other lands that have significant slopes or floodplains
- The State should conduct BLI's for small communities that do not have the capacity to do so
- Making refinements for the UGB land swap process could be particularly valuable and help address housing needs for a community

**Group 4 (Brian Rankin, Garet Prior, Ariel Nelson, Jonathan Trutt, Kaarin Knudson)**

- The request for having more detailed analysis on a BLI is complicated as it takes time and money
  - Include analyzing percent of property without structure in the BLI
- Some small cities have large property owners that hold onto considerable percentages of a city's buildable land. This can be a challenge when making a BLI
- A percent affordability requirement for development could be helpful for each city to have, and this requirement would be dependent on city size and additional factors

**Group 5 (Peggy Lynch, Brian Latta, Dave Hunnicut, Ted Reid)**

- Tax incentives could be an effective way to develop land within the UGB
- Land swaps are a convenient tool but are often unclear and somewhat unarticulated
- BLI's often result in policy outcomes that don't produce housing

- Oregon Department of State Lands needs money to provide data on wetlands as this can be too expensive for local governments to acquire themselves

**Group 6 (Kathy Wilde, Matt Lawyer, Mary Kyle McCurdy)**

- Ensuring that land is actually buildable, as there are areas within the UGB that are not developable. Geological surveys often inhibit the amount of buildable land and reduces square footage
- There is land that is not currently zoned for residential but should still be seen as developable for housing and placed into a buildable lands category
- Issues of proximity to utilities and septic infrastructure, existing transportation networks, and public services need to be considered when discussing housing affordability
  - Land that is zoned commercial is typically better integrated to higher quality public transit and non-motorized transit networks
- Public participation should be integral to a BLI as it helps articulate the local level buy in. Having intentional, consistent engagement from community members could ease some of the political strife

**Group 7 (Emily Reiman, Al Johnson, Peter Gutowsky, Samantha Bayer, Brian McDowell)**

- Have more options to customize, accommodate a broader range of housing types.
- Make the information more readily available – reduce reliance on outside consultants for analysis – smart maps; centralize foundational information.
- Develop more tools for smaller cities with examples. The UGB land swap is a good tool
- The 20-year land supply approach doesn't work. How many communities really have a 20-year supply that addresses market factors?
- A reporting requirement for factors that were analyzed in the past that didn't work could be helpful in modifying factors for the future

**Recap and Next Steps**

- Subsequent meeting is from June 30<sup>th</sup> from 1-4 PM
- Please share additional information and feedback from the session with Sean Edging, DLCD

*Meeting Adjourned.*

**Additional Comments from Working Group Members**

- It is important to acknowledge there is a difference between UGB and city boundaries. In addition, small towns have single property owners that are not ready to sell but are still included in the Buildable Lands Inventory.
- There needs to be more discussion on housing need for those with lower incomes along with the existing conversation regarding market rate housing. Although increasing production of units at the 80% AMI may produce a trickle-down effect, it will not be sufficient in addressing those at 60% AMI and lower.
- The distinction between the Housing Capacity Working Group and the Housing Needs Working Group is still unclear and could benefit from future clarification in the future.
- BLI analysis is hypothetically straightforward when cities have the required information, skill, and resources to conduct spatial analysis. The standard process of analysis is similar across different cities in Oregon: remove constrained lands and estimate housing capacity. But cities

might have different choices regarding their efficiency measures. Working with spatial data might be the most difficult challenge for smaller cities.

- To ease the challenge of working with spatial data, can DLCD create a web platform to make all these "spatial data" easy to access and possibly support BLI analysis? If all the required spatial information is accessible through the online platform and easy to understand, then it should simplify the part of the analysis that decides whether there is enough land within UGB for housing development. This platform could also be useful for DLCD to double-check the accuracy of the local BLI analysis.
- The whole BLI process is already political, and it might become even more political if DLCD attempts to centralize the process by telling cities how much housing they could build on their lands. The following-up procedures might be much more complicated.

# RHNA Working Group - Meeting 4

June 16, 2022

Meeting Notes

(Published June 20, 2022)



## Staff and Working Group Members

Sean Edging, DLCD	Ariel Kane, ECONorthwest	Mary Phillips, City of Gresham
Ethan Stuckmayer, DLCD	Ben Duncan, Kearns & West	Nick Snead, City of Madras
Mari Valencia-Aguilar, DLCD	Al Johnson, retired Land Use	Taylor Smiley Wolfe, Home
Gordon Howard, DLCD	Attorney	Forward
Ingrid Caudel, DLCD	Allan Lazo, Fair Housing Council of	Ted Reid, Metro
Megan Bolton, OHCS	Oregon	Carla Palandino, Medford
Mitch Hannoosh, OHCS	Cristina Palacios, Unite Oregon	Brock Nation, Oregon Realtors
Deb Meihoff, Communitas	Mary Kyle McCurdy, 1000 Friends	Dan Pauly, Wilsonville
Madeline Baron, ECONorthwest	of Oregon	Jill Rolfe, Coos Bay

## Key Insights Summary

**A housing report card to measure progress is important** – In general, working group members agreed that requiring jurisdictions to report on the four buckets (affordable production, total production, land use efficiency, and equitable and fair housing outcomes) at a minimum is the right direction. They offered recommendations for additional items for the report card to measure including incentives used, adjacency, diversity of location, and city-regional comparison. Some raised consideration for jurisdictions to have the ability to provide a narrative explanation as part of the report card. In terms of frequency, work group members generally felt the report card could be an annual responsibility.

**Report card evaluation must not be top down** – Some members shared their desire for the evaluation of the report card to allow for discussion recognizing that many communities, especially small, rural communities are making concerted efforts towards better housing outcomes all the while facing capacity and financial challenges. There are multiple nuanced challenges communities face that should be recognized. Praising efforts towards outcomes is important and will go a long way.

**Targeted and flexible investments to support jurisdictions will be key** – Most members agree that investments and resources will be needed to work towards the desired OHNA outcomes. Some suggested investments be focused on infrastructure and land to move housing projects faster to construction point.

**Rewards and punishments should be carefully balanced to not perpetuate existing conditions** – Work group members agreed that an accountability system that includes rewards/incentives and enforcement makes sense. Financial rewards must be carefully balanced to support communities that really need the support, communities that are making concerted efforts even if showing underproduction and

rewarding communities making great progress. In terms of enforcement, some members suggested shifting this responsibility to LUBA or a politically insulated organization.

### **Pre-Discussion Context**

Presentation slides available at the following link:

[https://www.oregon.gov/lcd/UP/Documents/20220616\\_Housing\\_Needs\\_WorkGroup\\_Mtg4\\_Presentation.pdf](https://www.oregon.gov/lcd/UP/Documents/20220616_Housing_Needs_WorkGroup_Mtg4_Presentation.pdf)

### **Key findings from focus groups**

- Connect housing to opportunity (e.g., location, jobs, transportation, wraparound services, etc.)
- Tools and policies to incentivize building, ensure codes are flexible and data driven
- Balance between state involvement and localized accountability
- Address barriers to accessing housing (long waitlists, unique barriers to subpopulations like immigrant, LEP, disability and farmworker populations, quality, meets need, etc.)
- Address land supply issues
- Improve community engagement and education
- Identify funds and improve capacity through financial and technical support
- Areas of needed follow up work:
  - Houselessness and shelter
  - Equitable representation in government and decisions making processes
  - Connection of housing to climate planning

### **Progress Updates since April**

- Reminder of the overall project framework and constituent components
- Previous work group meeting focused on high level policy concepts
- In May, project team reviewed findings from OHNA technical work
- Where are we going?
  - No work group meeting in July; project team will be drafting recommendations
  - August meeting will focus on the draft report and work group feedback, UO presentation on survey results
  - Consultant team will conduct listening sessions in September
  - Joint meeting between the OHNA Housing Needs Work Group and OHNA Housing Capacity Work Group; focus on reviewing recommendations
  - No meeting in November; focus on legislative prep
  - Final report due to legislature in December

### **Housing Report Card, Investment and Accountability System Context**

- Advance discussion on how to set realistic and productive accountability measures
- Advance discussion on how clearly articulating shared responsibility for all actors



## **Housing Planning Policy Pathways**

### **topics: Production Report Cards, Investment and Accountability System**

#### Discussion of Housing Report Card

*A key element of this discussion draft proposal is periodically publishing a Housing Production Report Card that measures progress toward:*

- a. Affordable production*
- b. Total production*
- c. Land use efficiency, for instance population/acre, diversity of housing types*
- d. Progress toward equitable and fair housing*

#### *Discussion Questions:*

- 1. Are these the right accountability metrics for a Report Card? What's missing?*
- 2. Are there any other details on the report card - production, tracking, publishing –needed to ensure shared accountability?*

#### **Breakout Group A**

- The relationship between housing production of a city and the region. Maybe the Dept should take this on – describing how the production relates to production elsewhere in the region to determine whether it's commensurate.
  - Suggest they would determine this themselves?
  - You may not want to ask individuals to do it. You may want the Dept to put this in a regional perspective.
- A narrative approach that describes what a city thinks is working and not working in the HPS to give more “color” to the numbers.
- This is based on the HPS and how we're meeting those goals? *[Staff response: This would be a report card on housing production.]*
- Based on that, in terms of the four buckets – maybe adding to how the incentives of a community have provided for production. What have they used or tried that has or has not worked?
- Would this be an annual report? *[Staff response: That's a question for you all.]*
- As I recall, because of legislation, there is reporting done by cities to DLCD on data related to housing. I think the degree to which these can be coordinated. Because this is required to be reported, both applications for housing and approvals – affordable production, it would be nice to know how many applications were made. I'd be interested to know what the application was for, whether it was approved, whether it was fewer units than what was applied for. What was the effort?
- The affordability production might not reflect what a city or housing agency has been trying to do.
- It's important to know that there are jurisdictions that are already producing monitoring reports that are sophisticated in comparison to other jurisdictions. We don't want to encourage jurisdictions to do less than they're doing now. Simple reporting of the OHNA figure, their job is to apply Goal 10 – We shouldn't get just hung up on production, we need to focus on whether they are meeting needs and obligations under state housing policy.

- Report cards of farmland is helpful, but they don't help with the granularity. What you describe (following more fine grain housing outcomes) would be helpful.
- Building on segregation – when discussing land use efficiency and housing types. We can say that we've built X number of townhouses but are they together or on the other side of the track. Adjacency is important. Is something that intersection on meaningful information that cities can report. In a lot of ways, "density" has so much baggage and what it means. I think "diversity" of housing types is a better metric in my mind.
- "Diversity of location" strikes me as an important metric to evaluate.
- Would the report say that a project was planned for 10 affordable units? Are you looking at having the planners describe what housing types were built? *[Staff response: The initial thought is dividing up larger developments – when talking infill (e.g., single townhouse), checking a box of the adjacent land use.]*
- Would jurisdictions have access to that information? *[Staff response: yes, we place those in our reports.]*
- Not understanding "efficiency measures" – is the intent here to produce more regimented efficiency measures and look at more nuance in terms of housing diversity and affordability.
- The 6- or 8-year report requires reporting housing mix and the HPS was a little softer because data is not evenly available. If we are doing a more regular report card to have something about the types of housing that are being produced.
- Speaking of HCAs, reviewing Coos Bay's HCA is a pretty good document, but it is inconsistent in terms of the use of "need" and "demand". It's based on the 1997 residential lands handbook, which should go through a rulemaking process (95% is good advice and 5% is bad advice).
- Frequency?
  - There's a question as to whether it would be used and doing it at the beginning would be more useful.
  - If it's combined with reporting, than annually/biannually seems to make sense.
  - You want to encourage cities to do at least what they are already doing, but not pushing cities that cannot come up to the state of the art.
  - We're looking at the building permit program and Acela could be useful.
  - FWIW, Acela is very easily accessible – we've been thinking about requiring the state to make it usable for all jurisdictions.
    - Intergov is also dominant, it would take millions per city to transition.
    - Acela is available to all jurisdictions, but changes can cost money – maybe promoting that. Acela has a 12% fee attached to the permit – that's why it's inexpensive.

#### **Breakout Group B**

- Is there a report card example or is this just an idea? *[Staff response: there is not presently a template to model after, however the idea is to move away from grading the jurisdiction on the plan making process and rather the progress/outcomes of the plan.]*
- What is the difference between the HPS report and the report card? *[Staff response: Report card is meant to be a succinct report that is standardized in some way to be assessed across comparable markets and be applicable across the state, rather than just the 10,000 + population.]*

- Both permits, and production should be monitored, and jurisdictions should explain the gaps and barriers. *[Staff explained that an idea is that in the case it is needed, an audit would be required to understand the barriers to production and to have some teeth, need to consider accountability for implementing HPS strategies.]*
- Need to measure against the regional need that the jurisdiction needs to be addressing
- Report cards are good – need to measure what HPS said it would produce and if it is adequate or not but will find that jurisdictions will say yes and implement, and others will say no. HPS, and report card can show us what actions are possible. The idea of an audit is intriguing, not sure how it is funded and who administers, we have enough data to figure it out without it. Have to recognize that some cities are trying to move the needle but can't for reasons that they have control over and some reasons that are out of their control. Maybe city and DLCD also fills out. Report card should include the opportunity to write about externalities, e.g., political viability of CET.
- Audit might be the wrong word, maybe something like Technical Assistance, from DLCD or OHCS? *[Staff clarified that that audit really means review and weed out recalcitrant jurisdictions that aren't doing what they can or should be doing and can require them to make changes. This provides cover for those who are trying to make changes but facing obstacles in the community or political sphere.]*
- Want to measure affordability, tenure, type in production to understand where underproduction is occurring. Can it be measured but not graded? *[Staff response: it's not part of the pilot and is difficult to track due to lack of data]*
- Data is important but in a small rural area it is a struggle, the MFI always lags. If data is perfect, it's great but data capacity is limited. If there are certain measures that are higher priority, indicate it for communities so that they can focus those areas, everything else is supplemental and informative but not part of the 'grade'. *[Staff response: the team is aware of the data limitations, these are meant to be qualitative, e.g., are you meeting AFHH goals Etc. or could be more about outreach. Additionally, (per HB4006), cities are being required to track permits and production data, would be rolled into the OHNA OR incorporated some other way. State is ones producing, not the cities themselves, the data would feed into HPS in the next cycle or consolidated plans to be useful in several ways but would hope not to add to administrative or technical burden in the jurisdiction. Would be included in the OHNA "equity data suite." This data would be made available.]*
- How would this tie in the HPS contextualized housing need – this would automatically be covered. The report card would be big picture every year while HPS still says on multiyear cycle? *[Staff response: this open for suggestions, but the idea is that the report card would start when OHNA starts and might have multiple years of data behind you in the HPS cycle and could show your production that could shed light on how your HPS stratifies are working.]*
- The BIPOC community finds report card very useful because it allows advocates to hold jurisdictions accountable to what they've said they were going to do. An alternative would need to be an easily accessible document for community members to understand and discuss with jurisdictions and discuss over time.

#### Discussion of Inclusive and Accountability System

*A key finding from the December Work Group meeting is that there is an "intrinsic connection between responsibility, accountability, and resources," including the need for careful consideration of the resources and investment required to make OHNA implementation successful.*

*Discussion Questions:*

1. *What investments will cities need to be successful? The Work Group, the stakeholder process, and best practices research to date has indicated certain types of investments and incentives that could support production and equity outcomes – SDC buydown fund, affordable housing production funding, land readiness funding, integrated communities fund.*
  - a. *Would these types of investments lead to successful OHNA implementation (increased production and more integrated communities)?*
  - b. *What do you like? What reservations do you have?*
  - c. *Are there other investments the state should consider to meet the needed outcomes?*
2. *What else should the state consider in developing a system of shared accountability? Reflecting on the Report Card discussion:*
  - a. *Should there be a system of rewards/incentives of those consistently receiving high marks on the report card? What would be the recommended parameters?*
  - b. *What are reasonable and viable enforcement tools or penalties if a state or local entity is failing to do everything in their control to meaningfully work towards increased production and more integrated communities?*
  - c. *What other accountability measures are needed?*
3. *So far, our understanding of the role of state agencies is that they should be investing in local capacity and housing production and coordinating on other state-level policies affecting housing outcomes. How should this accountability system intersect with state agency work to ensure they are doing all they can to work toward better housing outcomes?*

**Breakout Group A**

Question 1:

- Get rid of regulatory underbrush. One big one is inside UGBs on residential lands – slope, wetland, floodplain. Right now, there is land in the coast with significant wetland constraints, one with 1,500 approved lots in the UGB (for example). Before getting someone to sort this out, that land isn't available in any real sense. Determine lands that can or cannot be developed would be very helpful.
  - DEQ completed a report on this.
- State investment and assuming it's limited – a principle is it should lead with affordable housing. Having it "unlock" to local jurisdiction and not have too many strings.
- Making more surplus public lands available and affordable, but nothing comprehensive happening, but there's an inventory.
  - DSL with surplus lands views its obligation under the common school fund to pre-empt everything else, so it thinks like a corporation when transferring land. DSL seems attractive but may not be all that great.
  - On tax foreclosure lands, we look at residential lands. If they don't look good, we clean them up to put them back on the market.
- If there could be funding available for infrastructure projects too – e.g., in Bandon, there aren't services that would make housing projects less expensive. There are other reasons, but that would be very good.
- I've been noticing that a lot of private foundations are taking a lot of interest in housing and putting it into the kind of investment that can be carried on, so it doesn't evaporate once the project sells. I

don't know if there's anything from the land use regulation to incentivize doing that. E.g., extending sewers if you put a deed restriction to make it permanently affordable.

- Think about investment about "costs avoided" instead of just "money coming in" – evaluate existing regulations
- Evaluate public lands and coordinating that more comprehensively.

#### Question 2:

- Incentives make sense, maybe tying it to additional funding availability – e.g., consistency opening additional funding.
- The early days of the program – one of the major keys of success was there was a lot of funding for it. If you start using incentives (waiving SDCs and cutting service costs), backfilling that cost doesn't add a new layer. If we are asking you to do this and providing money, that's a good thing.
- "Carrots don't work if you're not hungry"-Allan Lazo. Withholding funding that hurts (transportation, infrastructure) – not likely politically viable. That requires ODOT, Business Oregon, and Building Code.
- Establishing an interconnected agency structure is important.
- It can be done in a way – e.g., a scoring card, if you're not actively doing things, you won't make the next consideration for a grant, but it's implicit.
- An existing stick is enforcement order, but the problem is it puts the wrong agency in charge of those decisions. In Corvallis, they received an incorrect enforcement order. I would love to see the enforcement order responsibility shifted to LUBA or a politically insulated organization. The enforcement order is a very important tool that is underutilized.
- Funding can be important when a local elected doesn't want to do something. It can ease that conversation

#### Question 3:

- No comments as group ran out of time.

### Breakout Group B

#### Question 1:

- If there are these incentives, who and what are they incenting? Can they be targeted toward difficult to produce housing? Infrastructure investments above certain density? MFI under 80%? If there can be some qualifiers on how incentives are applied, it will mean much more. *[Staff response: due to the inherent funding gap in affordable housing, much of these will be targeted to these, but many jurisdictions struggle also with market rate housing, site readiness, infill or vertical housing.]*
- Raised multifamily SDCs by 75% and not getting affordable housing for a variety of reasons, not enough land or tax credit. SDCs aren't necessarily an issue, infrastructure and land are where subsidies should be focus because it often times several developments not a single development, with all the complicated laws around SDCs, infrastructure is an easier target to move communities with developers. Land banking and acquisition has been a great idea with a lot of different ways to accomplish it, if cost of land can be cut down it would be key. *[Staff follow up: If the state were able to create a fund to backfill LOST SDC how would this feel?]*
  - Business Oregon should subsidize infrastructure for jobs, should also do it for housing. We have administrative infrastructure to do so

- Agree SDC is not necessarily what is a breaker for development. Was surprised to see them considered, it might not lead to the desired results.
- There are also highly varied SDC fee levels across the state, so the funds may not be distributed evenly under a backfill program
- Heard from small business owners of construction companies that the process of becoming a business is a challenge. Supply for housing is not just the materials but also the companies who have access to contracts and development opportunities. Are jurisdictions considering the equity impact of not choosing or supporting local companies for housing developers (rehab, affordable, etc.).?

#### Question 2:

- When accountability measures matter, typologies matter a lot, if high resource, high income jurisdictions are not contributing proportionally to regional housing production, an accountability measure should be included. *[Staff follow up question: should a curve be applied?]*
  - The OHNA should distribute need equitably but there needs to be consideration of the resources and the underproduction should take into account resources, market or willful nonproduction.
- When looking at rewards and punishments, we want to be careful that it is not perpetuating existing conditions. E.g., jurisdictions shouldn't be denied resources simply because of underproduction, particularly if efforts are being made. Provide accolades, peer recognition for efforts. *[Staff clarified that it will not be retracting resources due to lack of performance. California promoted a "Pro housing designation", getting a gold star for meeting housing goals. Carrots need to be further explored.]*
- Funds should be distributed according to the percentage of housing requiring. If they do not use it, they should give the money back
- Can resources be tied to 20-year housing needs analysis? As you meet certain thresholds, rewards are unlocked. *[Staff explained this is one option but could also be considered a rolling need or rolling production, the OHNA will be annual, but jurisdictions don't need to complete the HPS off cycle. Target is under discussion. Being considered – do we set bigger targets sooner to get out of underproduction in order to hit base line later on? This would front load targets while knowing jurisdictions are still struggling to meet it.]*
- Jurisdictions aren't starting in the same place: are we assuming they are? Or are we basing it on historical underproduction? What is the underlying disparity in the region that we're solving for? *[Staff response: future housing need will look at average regional income, but staff will follow up with an answer about the baseline.]*
- When we talk about accountability related to funding – when communities underproduce or overly segregate – are there other streams that would be impacted? E.g., transportation funds.
- What has the discussion on the report card been about how they are being judged for planning for/producing the needed housing and developers are wanting to produce here? *[Staff response: policies and barrier reduction can be accounted for even if production is not happening at the desired rate.]*
- Can it be monitored as building permit to land availability ratio?

#### Question 3

- Broad agreement that it would be great if DLCD and OHCS could align and work together better.



# Oregon

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DATE: June 30, 2022  
TO: Housing Capacity Working Group Members  
FROM: Department of Land Conservation and Development Staff  
SUBJECT: Statutory Context Summary – Efficiency Measures and Housing Production Strategies



## Purpose

The memorandum for the Housing Capacity Work Group meeting on June 30, 2022 contains a summary of relevant statutes and administrative rules implementing “efficiency measures”. This memorandum is intended to provide context to inform facilitated discussion, including statutory context for a new housing planning requirement implemented in 2019, the Housing Production Strategy.

## Efficiency Measures

An “efficiency measure” is a measure adopted by a local jurisdiction that increases the likelihood that residential development will occur at a higher density. Under the current statutory and administrative rule framework, efficiency measures are the first set of policies that a city implements before adopting an Urban Growth Boundary (UGB) amendment, and they are intended to ensure that a city is exhausting policies at their disposal to build more efficiently within the UGB before pursuing an expansion. Said more simply, if a housing capacity analysis finds that there is insufficient land within the UGB, a city is required to first grow “in and up” before growing “out”.

There are four major references in statute to efficiency measures. The statutory text is provided below this summary.

1. **ORS 197.296 (6)** indicates that if a jurisdiction identifies a deficiency of developable land, they must adopt either a UGB amendment or efficiency measures sufficient to meet the need or both (i.e. they must grow “out” or “in and up” or some combination of both).
  - Subsection (b) also includes a new requirement implemented as part of House Bill 2001. If a city adopts efficiency measures, they may assume that the changes will result in up to a three percent increase in capacity on applicable lands. They may assume a greater capacity if they provide “quantifiable validation” (i.e. data or analysis demonstrating the capacity will be greater). While this provision was intended to provide more realistic assumptions with regard to allowing middle housing across a broad section of lands, it also now applies to *all* efficiency measures.
  - A “concurrency requirement” was established under [DLCD vs the City of McMinnville](#) in 2001, meaning measures to accommodate needed housing must be adopted concurrently with the adoption of a housing capacity analysis.
2. **ORS 197.296 (7)** stipulates that if a city is planning for a different mix of housing than what has historically occurred, they must also concurrently adopt efficiency measures to ensure that this mix of housing can actually be achieved.
3. **ORS 197.296 (8)** stipulates that any efficiency measures adopted by a non-Metro jurisdiction comply with statewide land use planning goals and that the jurisdiction monitor and compare the anticipated mix/density to the actual mix/density achieved.
4. **ORS 197.296 (9)** establishes parameters surrounding efficiency measures, requiring that they be located appropriately, zoned at density ranges likely to be achieved, and in areas with sufficient urban services (i.e. they are realistic and achievable). This subsection also provides a non-exhaustive list of example efficiency measures.

In addition, [OAR 660-024-0050](#) provide additional parameters surrounding efficiency measures. Most notably, subsection (4) stipulates that a “local government must demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the UGB”. In practice, this means that a jurisdiction must demonstrate that they have adopted a reasonable set of efficiency measures and exhausted available options *other* than a UGB adjustment before pursuing the adjustment.

**ORS 197.296 (6)**

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

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

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

**ORS 197.296 (7)**

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

**ORS 197.296 (8)**

(8)(a) A local government outside a metropolitan service district that takes any actions under subsection (6) or (7) of this section shall demonstrate that the comprehensive plan and land use



regulations comply with goals and rules adopted by the commission and implement ORS 197.286 to 197.314.

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

#### **ORS 197.296 (9)**

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

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

## ***Housing Production Strategy***

The “Housing Production Strategy” is a new requirement for cities greater than 10,000 in population implemented in 2019. It consists of two major statutes; the statutory text is provided below this summary.

1. **ORS 197.290** requires that applicable cities outline a list of specific tools, actions, and policies that the city plans to take to address housing need and work towards more fair and equitable housing outcomes. These include strategies that consider financial and regulatory impediments and incentives to housing production. The city must include timelines for adopting and implementing each strategy.

- [OAR 660-008-0050](#) outlines more specific requirements associated with a housing production strategy, including more specific requirements for contextualizing housing need, engagement, strategy development, and fair and equitable housing outcomes
- 2. **ORS 197.291** establishes the review process for Housing Production Strategies. While many city actions require undergoing a PAPA process, housing production strategies are explicitly *not* land use decisions nor subject to appeal. The statute stipulates a process for submittal and noticing of adopted housing production strategies and indicates that DLCD is the final review authority for the sufficiency of housing production strategies.

This memorandum includes basic context on the Housing Production Strategy because many of the provisions specific to efficiency measures overlap with strategies cities adopt as part of housing production strategies. Currently, these processes occur separately from one another. In the upcoming discussion, we will discuss the possibility of implementing efficiency measures as part of a housing production strategy, which could have the effect of streamlining the housing capacity analysis while ensuring that efficiency measures are considered more holistically with other strategies cities consider to promote housing development.

#### ORS 197.290 HOUSING PRODUCTION STRATEGY

- (1) A city with a population greater than 10,000 shall develop and adopt a housing production strategy under this section no later than one year after the city's deadline for completing a housing capacity analysis under ORS 197.296 (2)(a) or (10)(b) or 197.297.
- (2) A housing production strategy must include a list of specific actions, including the adoption of measures and policies, that the city shall undertake to promote development within the city to address a housing need identified under ORS 197.296 (6)(b) or (10)(b) or 197.297. Actions under this subsection may include:
- (a) The reduction of financial and regulatory impediments to developing needed housing, including removing or easing approval standards or procedures for needed housing at higher densities or that is affordable;
  - (b) The creation of financial and regulatory incentives for development of needed housing, including creating incentives for needed housing at higher densities or that is affordable; and
  - (c) The development of a plan to access resources available at local, regional, state and national levels to increase the availability and affordability of needed housing.
- (3) In creating a housing production strategy, a city shall review and consider:
- (a) Socioeconomic and demographic characteristics of households living in existing needed housing;
  - (b) Market conditions affecting the provision of needed housing;
  - (c) Measures already adopted by the city to promote the development of needed housing;
  - (d) Existing and expected barriers to the development of needed housing; and
  - (e) For each action the city includes in its housing production strategy:
    - (A) The schedule for its adoption;

(B) The schedule for its implementation;

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

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

(4) The housing production strategy must include within its index a copy of the city's most recently completed survey under ORS 456.586 (2).

(5) The adoption of a housing production strategy is not a land use decision and is not subject to appeal or review except as provided in ORS 197.291.

(6) A city with a population of 10,000 or less may develop a housing production strategy as provided in this section.

#### ORS 197.291 REVIEW OF HOUSING PRODUCTION STRATEGY

(1) No later than 20 days after a city's adoption or amendment of a housing production strategy under ORS 197.290, a city shall submit the adopted strategy or amended strategy to the Department of Land Conservation and Development.

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

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

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

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

(d) The information reviewed and considered under ORS 197.293 (2).

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

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

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

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

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

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

(6) Based upon criteria adopted by the Land Conservation and Development Commission, including any criteria adopted under ORS 197.293 (2), the department shall, within 120 days after receiving the submission under subsection (1) of this section:

Subject or Addressee

Date

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(a) Approve the housing production strategy;

(b) Approve the housing production strategy, subject to further review and actions under ORS 197.293 (2); or

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

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

## FINAL REVISIONS TO TABLE FIVE – HOUSING MEASURES – CLEAN COPY

**Table 5: Measures to Accommodate Housing Needs**

<b>Table 5:</b> OAR 660-038-0190(5) Table of measures to accommodate housing needs within the UGB:			
<b>Item</b>	<b>Current Code Provision</b>	<b>Adopted change (note: none of these changes may require approval of a conditional use permit)</b>	<b>High or Low Impact</b>
1	Allows accessory dwelling units, but missing one or more of desired attributes	<ul style="list-style-type: none"> <li>• Allows accessory dwelling units:</li> <li>• No off-street parking requirement</li> <li>• Any type of structure</li> <li>• No ownership restriction</li> <li>• Allowed in any zoning district that allows detached units</li> </ul>	High
2	No minimum density standards	Minimum density standard at least 70 percent of maximum density for all residential zoning districts. Optional exemptions for constrained lands as defined in OAR 660-38-0070 and for lands that are being partitioned as defined by ORS 92.010(7).	High
3	Single-family detached homes allowed in medium density zoning district (as defined by residential need path standards)	No more than 25 percent of residences in development application in medium density zoning district may be single-family detached homes, unless the detached home is on a lot less than or equal to 3,000 square feet. Optional exemptions for lands that are being partitioned as defined by ORS 92.010(7).	High
4	Off-street parking requirements of one space per multi-family dwelling or greater for multi-family housing with four or more units	Change parking requirements to maximum of no more than one space per multi-family dwelling for multi-family housing with four or more units and no more than .75 spaces per multi-family dwelling for multi-family housing with four or more units within ¼ mile of high frequency transit service (defined as transit service with weekday peak hour service headway of 20 minutes or less). Allow provision of on-street parking spaces to meet off- street parking requirements. Allow reductions below one space per multi-family dwelling for developments that provide spaces for car-share vehicles or free transit passes to residents.	High

**Table 5:** OAR 660-038-0190(5) Table of measures to accommodate housing needs within the UGB:

Item	Current Code Provision	Adopted change (note: none of these changes may require approval of a conditional use permit)	High or Low Impact
5	No density bonus for affordable housing	Establish density bonus for affordable housing of at least 20 percent with no additional development review standards vs. development applications that do not include a density bonus. The affordable housing units shall constitute at least 20 percent of the overall dwelling units in the development application granted the density bonus. The affordable housing units must be reserved as affordable housing for a minimum of 50 years. Affordable housing is defined as housing that is reserved for households with a maximum household income of 80 percent of a city's mean household income. The percentage threshold for the household affordable housing reservation may also be less than 80 percent of a city's mean household income.	High
6	Current land use/zoning designations	Rezone from low density to medium or high density: City UGB 10,000 to 25,000: at least 10 acres: City UGB 25,000 to 50,000: at least 25 acres: City UGB > 50,000: at least 50 acres	High
7	Does not allow duplexes in single-family residential zoning districts	Permit duplexes on any lot in single-family residential zoning districts with no additional development review standards vs. single-family detached residences and no higher minimum lot size for a duplex than is required for a single-family detached residence.	High
8	Current public street standards	Reduction in public street right of way width standard by at least two feet.	High
9	Does not allow residences in some commercial zoning districts	Allow residences above the first floor and behind commercial uses on additional commercially-zoned lands, with no off-street parking requirement greater than one space per residence, with provisions for additional parking reductions for shared commercial and residential uses and in areas with approved parking management districts. UGB population 10,000 to 25,000: at least 20 acres UGB population 25,000 to 50,000: at least 50 acres UGB population > 50,000: at least 100 acres	High

**Table 5:** OAR 660-038-0190(5) Table of measures to accommodate housing needs within the UGB:

Item	Current Code Provision	Adopted change (note: none of these changes may require approval of a conditional use permit)	High or Low Impact
10	Systems Development Charges reductions or waivers	Adopt provisions that eliminate systems development charges for affordable housing units, or reduce systems development charges for such units by a minimum of 75 percent of the total systems development charges assessed to similar units that are not reserved for affordable housing. The affordable housing units must be reserved as affordable housing for a minimum of 50 years. Affordable housing is defined as housing that is reserved for households with a maximum household income of 80 percent of a city's mean household income. The percentage threshold for the household affordable housing reservation may also be less than 80 percent of a city's mean household income.	High
11	Does not authorize property tax exemptions for low income housing development pursuant to ORS 307.515 to 307.537	Authorizes property tax exemptions for low income housing development pursuant to ORS 307.515 to 307.535 under both the criteria set forth in ORS 307.517 and the criteria set forth in ORS 307.518, for all zoning districts within the city that permit multiple-family dwellings, with no additional development review standards vs. equivalent residential development that does not receive the exemption.	High
12	Does not authorize property tax exemptions for non-profit corporation low-income housing development pursuant to ORS 307.540 to 307.548.	Authorizes property tax exemptions for non-profit corporation low-income housing development pursuant to ORS 307.540 to 307.548, with no additional development review standards vs. equivalent residential development that does not receive the exemption.	High
13	Does not authorize property tax exemptions for multiple- unit housing pursuant to ORS 307.600 to 307.637	Authorizes property tax exemptions for multiple-unit housing pursuant to ORS 307.600 to 307.637, with no additional restrictions on location of such exemptions above those set in the statutes, and with required benefits pursuant to ORS 307.618 that are clear and objective and do not have the effect of discouraging the use of the property tax exemption by otherwise qualifying developments through the imposition of unreasonable cost or delay.	High

**Table 5:** OAR 660-038-0190(5) Table of measures to accommodate housing needs within the UGB:

Item	Current Code Provision	Adopted change (note: none of these changes may require approval of a conditional use permit)	High or Low Impact
14	Allows accessory dwelling units, but missing one or more of desired attributes	<ul style="list-style-type: none"> <li>Allows two accessory dwelling units, either no structure restrictions or one unit must be in the same structure as the primary dwelling or attached to the primary dwelling</li> <li>No off-street parking requirement</li> <li>Any type of structure</li> <li>No ownership restriction</li> <li>Allowed in any zoning district that allows detached units</li> </ul>	High
15	Does not have provision imposing a construction excise tax consistent with the provisions of ORS 320.192 and ORS 320.195.	Adopts a construction excise tax, consistent with the provisions of ORS 320.192 and 320.195, between one-half and one percent of the permit valuation for residential construction permits.	High
16	Off-street parking requirements greater than one space per multi-family dwelling for multi-family housing with four or more units	Change parking requirements to maximum of one space per multi-family dwelling for multi-family housing with four or more units.	Low
17	No minimum density standards	Minimum density standards at least 50 percent of maximum density for all residential zoning districts. Optional exemptions for constrained lands as defined in OAR 660-38-0070 and for lands that are being partitioned as defined by ORS 92.010(7).	Low
18	Minimum density standard less than 70 percent of maximum density	Raise minimum density standards to at least 70 percent of maximum density for all residential zoning districts. Optional exemptions for constrained lands as defined in OAR 660-038-0070 and for lands that are being partitioned as defined by ORS 92.010(7).	Low
19	Current land use/zoning designations	Rezone from low density to medium or high density: City UGB 10,000 to 25,000: 5 to 10 acres City UGB 25,000 to 50,000: 10 to 25 acres City UGB > 50,000: 20 to 50 acres.	Low
20	Density bonus for affordable housing less than 20 percent or with additional development review restrictions vs. standard housing	Increase density bonus for affordable housing to at least 20 percent with no additional development review standards vs. standard housing	Low



<b>Table 5: OAR 660-038-0190(5) Table of measures to accommodate housing needs within the UGB:</b>			
<b>Item</b>	<b>Current Code Provision</b>	<b>Adopted change (note: none of these changes may require approval of a conditional use permit)</b>	<b>High or Low Impact</b>
21	Current land use/zoning designations	Reduce minimum lot size for single-family residential zoning districts by at least one-quarter of the current minimum: City UGB 10,000-25,000: at least 25 acres City UGB 25,000-50,000: at least 50 acres City UGB >50,000: at least 100 acres	Low
22	Does not allow residences in some commercial zoning districts	Allow residences above the first floor and behind commercial uses on additional commercially-zoned lands, with no off-street parking requirement greater than one space per residence. UGB population 10,000 to 25,000: 10 to 20 acres UGB population 25,000 to 50,000: 20 to 50 acres UGB population > 50,000: at least 40 to 100 acres	Low
23	Does not have a cottage housing code provision	Adopts a cottage housing code provision authorizing at least 14 du/ac.	Low
24	Does not allow duplexes in single-family residential zoning districts	Permit duplexes on corner lots in single-family residential zoning districts with no additional development review restrictions vs. single-family detached residence and no higher minimum lot size for a duplex than is required for a single-family detached residence. .	Low
25	Off-street parking requirements for detached single-family units, attached single-family units, duplexes, or triplexes greater than one space per unit.	Reduce parking requirements for detached single-family units, attached single-family units, duplexes, and triplexes to no greater than one space per unit.	Low
26	No systems development charge deferrals	Adopt provisions that defer payment of systems development charges for affordable housing units to the date of occupancy of the unit. The affordable housing units must be reserved as affordable housing for a minimum of 50 years. Affordable housing is defined as housing that is reserved for households with a maximum household income of 80 percent of a city's mean household income. The percentage threshold for the household affordable housing reservation may also be less than 80 percent of a city's mean household income.	Low
<b>Table 5: OAR 660-038-0190(5) Table of measures to accommodate housing needs within the</b>			

UGB:

Item	Current Code Provision	Adopted change (note: none of these changes may require approval of a conditional use permit)	High or Low Impact
27	Does not authorize property tax exemptions for single-unit housing in distressed areas pursuant to ORS 307.651 to 307.687	Authorizes property tax exemptions for single-unit housing pursuant to ORS 307.651 to 307.687, with design standards pursuant to ORS 307.657(3) that are clear and objective and do not have the effect of discouraging the use of the property tax exemption by otherwise qualifying developments through the imposition of unreasonable cost or delay.	Low
28	Does not authorize freeze in property tax assessment valuation for rehabilitated residential property pursuant to ORS 308.450 to 308.481	Authorizes freeze in property tax assessment valuation for rehabilitated residential property pursuant to ORS 308.450 to 308.481. The boundaries of the area that qualifies for the assessment freeze shall be between 10 percent and 20 percent of the city's total land area. The city shall promulgate standards and guidelines for review of applications under the program pursuant to ORS 308.456(3) that are clear and objective and do not have the effect of discouraging use of the program by otherwise qualifying rehabilitations through the imposition of unreasonable cost and delay.	Low
29	Single-family homes allowed in high density zoning district (as defined by residential need path standards)	New single-family homes not allowed in high density zoning district	Low
30	Does not allow attached-single family residences in a single-family residential district with a minimum lot size 5,000 square feet or less	Permit attached single-family residences in a single-family residential district with a minimum lot size of 3,000 square feet or less.	Low
31	No maximum lot size for single-family detached dwellings in zoning districts that permit attached and multi-family housing	Maximum lot size for single-family detached dwellings in zoning districts that permit attached and multi-family housing of 5,000 square feet. Optional exemption for lands that are being partitioned as defined by ORS 92.010(7).	Low
32	Does not have provision requiring inclusionary zoning consistent with ORS 197.309	Adopts inclusionary zoning provision consistent with ORS 197.309, requiring 10% or greater of units to be affordable.	High

**Table 5:** OAR 660-038-0190(5) Table of measures to accommodate housing needs within the UGB:

Item	Current Code Provision	Adopted change (note: none of these changes may require approval of a conditional use permit)	High or Low Impact
33	Does not have provision requiring inclusionary zoning consistent with ORS 197.309	Adopts inclusionary zoning provision consistent with ORS 197.309, requiring less than 10% of units to be affordable.	Low
34	Does not have a vertical housing development zone approved by Housing and Community Services Department under the provisions of ORS 307.841 to 307.867	Adopts a vertical housing development zone approved by Housing and Community Services Department under the provisions of ORS 307.841 to 307.867.	High
35	Allows accessory dwelling units	Eliminates at least one of the following provisions of existing accessory dwelling unit standards: <ul style="list-style-type: none"> <li>• Eliminates all off-street parking requirements</li> <li>• Eliminates any owner-occupancy requirements</li> <li>• Eliminates any requirements relating to location of ADU entryway and eliminates any setback or height restrictions greater than those for the primary dwelling</li> <li>• Eliminates design standards except for those imposed as a designated historic structure or district adopted pursuant to Statewide Planning Goal 5</li> </ul>	Low
36	Imposes systems development charges for accessory dwelling units	Reduces systems development charges for accessory dwelling units by at least 25% from current levels	Low
37	Does not have provision imposing a construction excise tax consistent the provisions of ORS 320.192 and 320.195	Adopts a construction excise tax, consistent with the provisions of ORS 320.192 and 320.195, of less than one-half percent of the permit valuation for residential construction permits.	Low
38	Currently collects a construction excise tax, consistent with the provisions of ORS 320.192 and 320.195, of less than one-half percent of the permit valuation for residential construction permits.	Adopts a construction excise tax, consistent with the provisions of ORS 320.192 and 320.195, between one-half and one percent of the permit valuation for residential construction permits.	Low