

Oregon Housing Needs Analysis Draft Recommendations Report: *Leading with Production*

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DRAFT Report

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Relevant Acronyms

OHNA: Oregon Housing Needs Analysis
RHNA: Regional Housing Needs Analysis (prior name for OHNA)
OHCS: Oregon Housing & Community Services Dept.
DLCD: Dept. of Land Conservation & Development
LDCD: Land Conservation & Development Commission
HPS: Housing Production Strategy

HCA: Housing Capacity Analysis
UGB: Urban Growth Boundary
BLI: Buildable Land Inventory
SDC: System Development Charge
AMI: Area Median Income
LIHTC: Low-Income Housing Tax Credit
LIFT: Local Innovation Fast Track
PAB: Private Activity Bond
AFFH: Affirmatively Furthering Fair Housing

Draft Recommendations

The report responds to specific legislative direction dating back to House Bill 2003 (2019). This bill charted a new direction to more fully and equitably meet housing needs as required by Goal 10: Housing, of Oregon's statewide land use planning program. House Bill 2003 led to multiple reforms, including a requirement for local adoption of Housing Production Strategies (HPSs) and the development of a new pilot methodology for estimating statewide housing need. In House Bill 2003 and the pilot methodology the model to estimate statewide housing need was called the Regional Housing Needs Analysis (RHNA), but it is now called the Oregon Housing Needs Analysis (OHNA).

In a budget note in House Bill 5006 (2021), the Legislature then directed Oregon Housing and Community Services (OHCS) and the Department of Land Conservation and Development (DLCD) to deliver recommendations on how to implement the OHNA in advance of the 2023 Legislative Session.

This report is an interim step toward that formal report. It provides details on the agencies' discussion draft recommendations summary, published on August 11, 2022, and supports further engagement and discussion as the agencies finalize their recommendations. While it may be possible to consider some of these recommendations in isolation from others, our core finding is that Oregon's ongoing housing crisis requires comprehensive and structural changes to Goal 10 implementation and housing production.

Many precedent documents and processes inform these draft recommendations:

1. OHCS and DLCD each published reports in 2021 describing the results and technical elements of the proposed statewide methodology for calculating housing need (the OHNA) and recommending legislative action to implement it ([OHCS summary report](#), [OHCS technical report](#), and [DLCD report](#)).
2. In early 2022, OHCS and DLCD developed an initial framework, titled [Meeting Oregon's Housing Needs: Next Steps for Equitable Housing Production](#), which outlined this effort to recommend policies on how the state can implement the OHNA into Goal 10 processes.
3. DLCD and Communitas Consulting facilitated a working group, which has met five times to inform these draft recommendations. The working group is scheduled to meet three more times to refine the recommendations for legislative consideration. To review meeting materials and summaries, visit the [DLCD Housing Needs webpage](#).
4. To assist the agencies in their engagement processes, consulting firm Kearns & West led [six stakeholder focus groups](#) with partners from nonprofit, development, government, and fair housing organizations to solicit input. The agencies and consulting team will hold three additional engagement sessions to report back to these communities.
5. DLCD held [14 regional forums](#) with local government planners, developers, elected officials, and advocacy groups around the state to inform these draft recommendations.
6. In response to a 2022 legislative budget note and direction in House Bill 5202, DLCD is leading a parallel Housing Capacity Working Group charged with considering specific reforms to make the Housing Capacity Analysis and Goal 14: Urbanization process smoother and more efficient. These discussions are underway. DLCD published a [draft recommendations report](#) on August 24, 2022, which is included as Appendix A.
7. To inform these draft recommendations, DLCD and OHCS' lead consultant, ECONorthwest, conducted [best practices research](#) into what is working in other states and reviewed an [audit of California's housing planning system](#) to inform how Oregon's system could work.

8. The University of Oregon conducted a literature review and a survey of planners, developers, and local governments regarding barriers to development and published a [preliminary summary of their results](#). Full results will be available in late fall 2022.
9. Portland State University's Homelessness Research and Action Collaborative provided research and engagement regarding long term engagement on housing production issues. Full results will be available in late 2022.

The recommendations in this report are draft and not yet fully developed. This document describes DLCD and OHCS's recommended policy changes for the purpose of facilitating discussion and inform policy refinement as the agencies submit their final recommendations to the Legislature in advance of the 2023 Legislative Session.

The project team welcomes specific refinements, suggestions, and proposals to improve the recommendations and fulfill the direction prescribed by the Legislature. A discussion of future public engagement with opportunities for feedback is included in the conclusion, beginning on page 33.

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Executive Summary

Oregon's housing undersupply threatens the very core of our common purpose as Oregonians. We cannot grow sustainably, move toward a more equitable economy, or address the full complexity of the homelessness crisis unless we substantially increase our supply of homes.

Making meaningful progress will require comprehensive system reforms. While Oregon has already made great strides, including through recent legislative initiatives like House Bill 2001 and House Bill 2003 (2019), we are still falling behind. To continue, the state and its communities must now tackle the harder reforms needed to prioritize housing production.

Our current system plans for and invests in too little housing. The outcome is undersupply, rising home prices, segregation and displacement in some communities, and deepening inequities across all communities. Together, we must plan for and build the housing we need, where we need it.

The draft recommendations in this document describe the comprehensive, system-wide reforms needed to reverse decades of underinvestment in housing production and development readiness, organize our land use planning systems toward the common goal of building housing, and begin to redress disparities in housing outcomes. These draft recommendations can only make a difference if the Oregon Legislature commits to serious reform of the land use planning system, helps local governments pay for public infrastructure and affordable housing, and creates a cohesive state approach to housing production. Those comprehensive reforms will require significant investments, as well as changes to state statute, rule, and guidance to implement. In summary, they are:

Housing Under-Production is a National Problem

Oregon is not alone. While nearly every state is experiencing underproduction, Oregon's outcomes are among the worst.

Measured as a share of housing stock, **Oregon ranks 4th in under-producing housing in the country** behind California, Colorado, Utah, and ahead of Washington State.

Recommendation 1) Plan for what's needed.

Oregon's land use system needs to balance housing production with growth management, economic, and environmental goals. For this to work, the system requires a reorientation that starts with an updated and consistent statewide methodology to more clearly determine housing need and equitably distribute it among jurisdictions. Planning for what's needed requires that:

- 1.1 The State should formalize the OHNA methodology as the consistent, statewide source for setting common goals for housing planning. OHCS and DLCD have extensively reviewed a [2019 pilot methodology](#) and have plans to make formal amendments in a forthcoming technical report. Maintaining and deploying it will require administrative and technical capacity, a regular cycle of review and update to incorporate new data, and annual database management to track progress toward housing production targets.
- 1.2 Cities with a population above 10,000 people will have housing production targets and equity indicators, produced by the state, to help solve our crisis. The state will measure progress toward targets in an outcome-driven system that adjusts policies over time.

- 1.3 With their OHNA-derived housing production targets and strengthened policy requirements, cities will craft community-led and actionable Housing Production Strategies (HPSs) that promote equitable housing production and overcome locally specific development barriers.
- 1.4 An improved system will streamline land capacity and urbanization processes to expedite well-planned expansions that support needed housing where capacity is limiting production.

What is the Oregon Housing Needs Analysis?

The OHNA is the cornerstone of a reformed housing planning system. It provides a comprehensive, city-by-city estimate of housing need by income, along with data and information about how local housing outcomes vary by race and ethnicity, age, disability status, and other identity markers. When implemented, it will be a regularly updated data suite that can be used to set state and local **housing production targets**. It provides a **more accurate representation** of full housing need and a **more equitable distribution of affordable housing** throughout regions.

In the methodology alone, the **OHNA takes a big step toward equitable outcomes** compared to the current Housing Capacity Analysis methods, by incorporating historic housing underproduction and housing needed for people experiencing homelessness into future production targets, and by **using regional incomes to project housing need** by income level. In addition, the OHNA would be the source of annual housing production dashboards that provide clear metrics that can be used to track and monitor real production outcomes and metrics related to housing equity.

Recommendation 2) Build what's needed, where it's needed.

It's one thing to plan to accommodate housing and another for that housing to be built. Where housing is built and for whom dramatically impacts who prospers and how our neighborhoods function. Building what's needed where it's needed will require us to:

- 2.1. Commit resources for housing production, affordable housing production, and development readiness, including infrastructure funding. This is not a one-time investment. It must be sustained over time and targeted for construction of the types of housing that the market is least likely to produce without aid: housing for low-income households, missing middle¹ and workforce housing, and housing in rural and coastal markets. Creative financing and funding sources that leverage private investment should be considered. In the near-term, the state will need to better coordinate existing resources and funding toward the goal of housing production (see Recommendation 3.1).
- 2.2. Use the implementation of Housing Production Strategies to advance fair and equitable housing outcomes, including addressing segregation and displacement.² We must build more

¹ "Missing middle" is a term that describes a range of housing options between single- and multi-family housing that were common in pre-WWII American cities. The Oregon Legislature recently legalized many of these housing options in most Oregon cities via House Bill 2001 (2019 Legislative Session).

² Those who most often face housing discrimination, segregation, and displacement include, but are not limited to, low-income households, households of color, people with disabilities, large families, other federally protected classes, and households with other specific housing needs.

housing in the places where it is needed, with intentional strategies that aim for fair housing and enable housing choice for all.

Recommendation 3) Commit to working together with urgency.

Housing underproduction is a systemic problem that cannot be resolved by any one actor. Public, private, local, and statewide entities all have a role to play and can become obstacles when not coordinated. There is no one entity or person responsible for the public sector role in housing production at the state level. For our state to have an effective system to accelerate housing production, we must have coordinated administrative systems that can deliver. Working together with urgency requires us to:

- 3.1. Develop an interim mechanism for state agency collaboration and accountability, to make rapid progress toward housing production goals, and evaluate options for longer-term administrative structures. The interim solution should encompass a housing production team composed of experts in development, affordable housing development, fair housing, planning and development code, permitting processes, etc. to diagnose and overcome development barriers and recommend policy or funding intervention when needed. Authoritative and specialized expertise can help “unstuck” development challenges and move more projects forward faster.
- 3.2. The State and Metro Regional Government (Metro) should also develop a version of a Housing Production Strategy that clearly articulates state and regional housing production targets and describes what they will contribute to partnerships with local jurisdictions. Metro will continue to manage its region’s land use planning processes and will use housing projection and allocation methodologies consistent with the OHNA. While there are many details to work through to determine how best to develop and coordinate these processes and strategies, full partnership will require all parties to commit to action.

Implementation Considerations

Implementing these draft recommendations will likely need to be sequenced over more than one legislative cycle. To make near-term progress on their implementation, we recommend that the Legislature consider bills in the 2023 session that advance the bipartisan goal of building more homes.

A. Redefine Oregon’s Planning Process for Housing

The Legislature should establish the OHNA as the foundation for Goal 10 planning processes in state statute, including directing cities to replace local projections of need in Housing Capacity Analyses (HCAs) with OHNA-generated 20-year need. It should strengthen HPSs by requiring actions that address housing barriers and advance fair housing outcomes, and by incorporating production targets based on the data provided in the OHNA.

B. Coordinate State Response

The Legislature should establish an interim Housing Production Team and administrative leadership position, temporarily inside of DLCD. The housing production issues facing many communities demand an immediate state response. This team should be deployed as quickly as possible to achieve early housing production wins by helping cities build on challenging development sites, removing barriers, and focusing state resources. Additionally, this team should be charged with developing the first ever statewide Housing Production Strategy, which can shift the state's energy and efforts to this urgent challenge. The Legislature should direct staff at other agencies, especially Oregon Housing and Community Services, Business Oregon, the Oregon Health Authority, the Bureau of Labor and Industries, and the Oregon Department of Transportation, to coordinate their activities and (as appropriate) available funding toward the goal of housing production in coordination with the new Housing Production Team.

C. Create Innovative Funding and Finance Solutions

In addition to funding affordable housing production through OHCS, the Legislature should establish new housing production funding mechanisms aimed at middle and workforce housing development. Along with better coordination of existing funding sources, new sources for infrastructure funding, systems development charges, and pre-development activities are needed. Several stakeholder tables are considering innovative funding and financing mechanisms that are resonant with the recommended fund types in this report.

D. Improve Planning Processes for Housing Capacity and Land Supply

The Legislature should make statutory changes necessary to make needed urban growth boundary (UGB) expansions³ more efficient and certain. DLCD is currently leading a process to clarify draft recommendations for near-term actions (a draft report is included as Appendix A).

Few policy imperatives are more important to Oregon's future than increasing the pace of building new homes. Housing production is on the critical path to building Oregon's economic competitiveness, helping families prosper, and improving community resilience. Simply producing the units needed to meet current demand could generate up to \$40 billion in additional economic growth, a boost that would benefit us all.⁴ It will take hard work and investment from the coordinated actions of many partners in the public and private sectors, and at the state, regional, and local levels. DLCD and OHCS look forward to continuing conversations about solutions and refining these recommendations in advance of the 2023 legislative session.

³ Each Oregon city is surrounded by an urban growth boundary (UGB); a line drawn on planning maps to designate where a city expects to grow over a 20-year period. Generally speaking, it's where the city ends, and the farms and forests begin.

⁴ This estimate is based on Oregon's share of the national economic benefits that come from producing 3.8 million housing units across the country over a 20-year time period (as described in Up for Growth's *Housing Underproduction in the U.S. 2022 Report*), scaled to match the OHNA estimates of current underproduction and units needed for people experiencing homelessness. Economic growth is measured as increase in gross domestic product.

I. Introduction: Our Housing Crisis

Oregon's lack of housing threatens the very core of our common purpose. Decades of underbuilding have driven up home prices and rents and left too many without adequate housing choices. Too often, people can't afford housing at all. We won't be able to grow sustainably, move toward a more equitable economy, or address the full complexity of the homelessness crisis unless we substantially increase our pace of building new homes. Over the next 20 years, Oregon's communities need to add more than 550,000 units, over 30 percent of which will house Oregon's lowest-income residents and will require public funding. We must organize our systems to plan for and build these homes.

We cannot equitably distribute what we do not have enough of to begin with. The people who are suffering most acutely from our housing shortage are disproportionately lower income and communities of color. The lack of housing options perpetuates segregation through economic exclusion. By restricting people's housing choices, we make Oregon less fair, deprive people of basic human dignity, and limit our collective growth and prosperity. Where housing is built and for whom dramatically impacts who prospers and how our neighborhoods function. We need a range of housing types for all income levels, distributed equitably around and within each region of the state, providing access to employment and critical services and reducing the overall cost-burden to families and individuals.

This applies to both renting and homeownership. For most Americans, homeownership is the primary path to building personal and generational wealth. However, housing scarcity inverts the American dream. The market caters mostly to wealthier buyers, while rising housing costs make it nearly impossible for many to buy their first homes. At the same time, the lack of housing increases the need for publicly financed units and ultimately forces the most vulnerable people to become unhoused. This is devastating for people experiencing homelessness and has negative social and economic impacts on communities.

Oregon's system of comprehensive land use planning describes a decades-old intention to do better. It embodies the state's core values and has long represented a consensus on the preservation of farm and forest land, the importance of community engagement, and the need to plan for a healthy economic future. It also includes a requirement that jurisdictions plan for 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."⁵ However, the implementation of this vision has not been fully realized and many thousands of Oregonians lack an affordable, accessible, or safe place to live.

A [recent survey](#) conducted by the University of Oregon sheds light on what is not working. The survey found broad agreement across sectors that we face significant challenges in the cost, availability, and readiness of land to support development as well as the prohibitive cost of infrastructure, materials, and labor. There are sharper divides, however, when determining who

⁵ Goal 10 of Oregon's Land Use Planning: <https://www.oregon.gov/lcd/OP/Documents/goal10.pdf>

is responsible for causing and addressing the current crisis. The survey finds that local governments tend to implicate the lack of funding and inflexibility on the part of developers to deliver a broader range of housing types, while private and non-profit developers view over-regulation and onerous processes as the culprit. Meanwhile, for the most part, local governments interested in advancing affordable housing solutions have been left on their own, without meaningful coordination or investment from the state to help find and implement solutions.

By statute, DLCD regulates the land use planning and policy that is implemented at the local level. OHCS funds affordable housing production and preservation. However, *no state agency is directly responsible for overall housing production*. This has left some jurisdictions without workable solutions to incentivize market or affordable housing production and allowed others to avoid their housing obligations. We should not be surprised that, despite the best efforts of the agencies and local governments, the outcome of this disconnected system has been decades of housing underproduction and the perpetuation of housing inequities.

The draft recommendations offered in this report focus on streamlining statutory requirements and bureaucracy so that Oregon can deliver real outcomes -- more housing in all parts of the state, a diversity of housing types, and more affordable units where they are needed. We offer these recommendations with a great sense of urgency. While there are many efforts underway to address the immediate symptoms caused by our lack of housing, we will not be able to meaningfully address the hardships faced by Oregonians until we focus on the long-term solution: providing more housing options for everyone, everywhere.

A Shift in Focus That Benefits Us All: Leading with Production

While the originators of Goal 10 intended for careful planning that would result in balanced, diverse, and affordable outcomes, the truth is that implementation has fallen far short of that intent. The historic implementation of Goal 10 has overemphasized “accommodation” of housing need by completing an accounting exercise of the theoretical capacity of land, while doing little to ensure that housing is built or address where it should be located and whether households are realistically able to access it. This has negative consequences for all Oregonians – in dramatic underproduction, rising rates of cost burdening and homelessness, and continued patterns of segregation and involuntary displacement. Holistic updates are needed to better produce needed housing.

The draft recommendations in this report shift the current system’s focus on accommodating potential housing growth to building the housing Oregonians need. We do this by:

- Accurately identifying what housing is needed by income and holding ourselves accountable to action
- Equitably allocating housing need within and between communities
- Requiring jurisdictions to consider context-specific actions to address displacement and segregation

- Providing strategic, flexible funding for housing the market will not build on its own
- Connecting existing Fair Housing obligations to our land use system and Housing Production Strategies to support diverse, quality, physically accessible, affordable housing choices with access to economic opportunities, services, and amenities
- Measuring and evaluating progress towards improved housing outcomes, especially for those who have been historically underserved

Taken together, these draft recommendations can transform our system from one that plans for and invests in too little housing to one that plans for and builds the housing we need, where we need it.

Our Shared Housing Obligation

We all share a responsibility to find the solutions that let us build what's needed where it's needed. The lack of sufficient units affects every community, but the people who are suffering most acutely from our housing shortage are disproportionately lower income, communities of color, or people with disabilities. They cannot be asked to wait another decade or more for Oregon to reverse the discriminatory policies and practices that have limited their housing options.

Solutions include: policies that enable production, public and private investment in a range of housing types, and clear policy goals so we can hold ourselves and each other accountable to outcomes.

To make meaningful change, Oregon needs holistic system reform that brings state and local governments and affordable and market-rate developers together with common goals for building more homes, building more publicly supported homes, and investing in inclusive communities. To achieve this aim, we need a clear shift in approach to lead with production.

Reforming the Goal 10 Planning System for Housing

Oregon does not have a clear roadmap to follow for state oversight of housing production. Few other states have attempted a production-focused strategy, and none of them share Oregon's statewide land use planning system. While our [review of national best practices](#) provides lessons learned from other states, applying them in Oregon requires a thoughtful, carefully implemented approach, at least in part because the Oregon Legislature has already taken some of the suggested steps. In House Bill 2001 (2019), it eliminated zoning exclusive to detached single-unit homes, allowing a greater diversity of housing to be built throughout the state, and required cities of over 10,000 to develop Housing Production Strategies (HPSs). While these are necessary steps that will yield long-term benefits, expedited housing production will also require an alignment of a full suite of policy tools, agency coordination, and public investment.

In many states that are newer to comprehensive planning initiatives, zoned capacity limits housing production. Oregon's problems are different. The state has already increased zoned capacity to enable production, including through recent legislative initiatives like House Bill 2001 (2019). Now, we must tackle the harder reforms needed to lead with production. We need to make

sure that enough zoned capacity is available in the right places so that community members, especially those who have experienced historic marginalization, have meaningful choices in where they live and what kind of housing choices are available to them. At present, our system generates lower housing production in whiter, more affluent communities and expands capacity mostly in lower-income and more diverse communities. We need to improve the often onerous and contentious system for allowing jurisdictions to add land needed to meet growth and current housing deficits. And, most importantly, we need to turn our attention and investments to making land ready for development, advancing state and local policies that are supportive of increased production and housing options, and accelerating affordable housing construction.

The draft recommendations in this report are far-reaching and will fundamentally change the way Oregon plans for and produces housing. If adopted, these changes could modernize Goal 10 into a national model for housing production. Goal 10 systems reform can deliver:

- **Increased focus on local actions that enable land readiness and production**, including removal of zoning and regulatory barriers and access to infrastructure investment
- **A smoother and less litigious UGB expansion process**, supported by the land use efficiencies in housing production strategies and a more accurate representation of housing need
- **Advancing fair housing goals**, by expanding production and housing options in historically exclusionary areas and integrating affordable housing across regions
- **Better and clearer guidance on local actions**, clarifying the purpose of each planning function and reducing and streamlining current requirements

These improvements are anchored by the objectivity of the OHNA methodology, data, and unit allocation to local jurisdictions. It is critical that these goals be seen as achievable and not an unfunded mandate. Discussions with local governments, the development community, and various advocacy organizations throughout the state have clarified that the state needs to implement changes that foster **partnership** between state and local governments, **accountability** to working towards housing need, and **investment** to support market-rate and affordable housing production.

II. Draft Core Recommendations

Recommendation 1) Plan for what's needed

Overview: Lead with Production

Leading with production requires a fundamental shift from a more passive planning approach to accommodate growth to outcomes-based strategies that focus on production.

As directed by statute, our current system addresses housing need by using past development trends to calculate the land supply and zoning capacity needed to meet future demand. This is problematic in that past trends may not reflect the actual regional housing need and demand for housing options in that location. In this current system, most jurisdictions systematically underestimate their future housing demand, and especially underestimate their demand for housing for lower income households, because the demand was not appropriately accounted for originally and was reinforced through low production performance. This creates a negative feedback loop where underproducing housing, especially affordable housing, causes future projections to further underestimate need. A consequence of this dynamic over several decades is that the Housing Capacity Analysis (or Housing Needs Analysis), the historic implementing document of Goal 10, has become a land supply calculation and growth management tool that has little to do with actual housing production needed for a healthy society and economy. Instead, Goal 10 implementation has enabled and reinforced housing inequities between and within communities.

Overcoming this challenge requires implementing a new methodology that better estimates total need and does not rely on past development trends to determine where growth will occur (recommendation 1.1), setting production targets and measuring progress toward those targets (recommendation 1.2), strengthening and streamlining Housing Production Strategies so that they are better organized to remove barriers to development (recommendation 1.3), and streamlining the process for expanding urban growth boundaries when they are needed in a coordinated housing planning system (recommendation 1.4).

1.1 Formalize the OHNA as the foundation for housing planning in Oregon.

Part of 2019's House Bill 2003 directed OHCS to develop a pilot methodology to estimate Oregon's statewide housing need. In its inception, this methodology was called the Regional Housing Needs Analysis or RHNA, borrowing the term from California. In this implementation work, it is renamed the Oregon Housing Needs Analysis, or OHNA, to better reflect its evolution to a unique, Oregon-specific model. The pilot analysis was completed and extensively reviewed in 2020, including a [full results report](#), [technical methodology](#), and [assessment report](#) that documents how this methodology improves upon current processes.

The OHNA methodology is the cornerstone of a different approach to Goal 10 implementation. The draft recommendations in this report assume access to the data and information that would come from implementing the OHNA methodology. The OHNA methodology will provide a

data-informed measurement of housing need in each area of the state that, (i) estimates units needed to meet current and future housing need, (ii) catches up with past underproduction and the resulting pent-up demand, (iii) accounts for people experiencing homelessness, and (iv) ensures a more equitable distribution of affordable units within a region. Using this methodology, the state will calculate and allocate housing need with a standardized approach, replacing housing needs projections that are currently developed by local jurisdictions at great expense of time and resources.

As part of this implementation effort, DLCD and OHCS recommend changes to the pilot methodology to better account for second and vacation homes, improve and broaden indicators of housing outcomes, and better align income brackets with funding sources available to support affordable housing production. In the coming months, OHCS and DLCD will publish a technical report with recommended changes to the OHNA methodology. The revised methodology suggests that **Oregon needs 550,744 new housing units** to accommodate 20 years of population growth and to account for current underproduction and the lack of units for people experiencing homelessness.⁶ About 176,300 of these units, or 32 percent, will need to be affordable for households earning less than 60 percent of statewide area median income (AMI).

With these revisions, the OHNA contains the following parts:

1. **Housing Production Index (measures housing need).** For each city and county, for the Metro region, and for the state as a whole, the Housing Production Index will provide estimates of housing need for 20 years, by income range. The HPI is the basis for local housing production targets for cities over 10,000 (see recommendation 1.1). For all cities, it will also replace the 20-year projection of housing need currently completed locally by cities in required housing capacity analyses.
2. **Housing Production Dashboard (measures progress toward meeting need).** Annually, for each city that has a six or eight-year production target, for Metro, and for the State, the state will compile and publish data showing progress toward production targets (see recommendation 1.1 for details) in a housing production dashboard.
3. **Housing Equity Indicators (measures housing outcomes).** For each city, the OHNA model will provide annual reports on housing outcomes. These include data and information about rates of rent burdening and homeownership by race and ethnicity, age, and disability status (as data allow for smaller jurisdictions). It can also be updated to include information about segregation and risk of gentrification, or other measures of housing outcomes, such as climate resilience within communities. The information provided will vary from geography to geography; for some smaller geographies, data are insufficient to provide reliable disaggregation. While DLCD and OHCS will lead further

⁶ The pilot methodology estimated a total statewide need of about 584,000 units, of which 110,000 units were due to underproduction. The revised methodology shifts the income bins used and better accounts for the effects of second and vacation homes on total housing stock, which decreases the overall estimate for underproduction while increasing housing need in areas of the state with concentrations of second homes.

engagement and discussion following legislative adoption of these recommendations to confirm the specific measures that are most useful and appropriate, recommendation 1.2 provides initial draft concepts.

The OHNA will need to be reviewed and updated on a regular cycle as new data become available. The most appropriate schedule for significant revisions is likely to be every ten years, timed as new census data and geographic boundaries become available. Smaller mid-cycle adjustments and updates are possible if warranted and resources are available. To maintain and run the model on a regular basis, the OHNA will need to be housed in an agency with data capabilities including housing economics, modeling capacity, database management, and data visualization skills, and with the ability to gather information from local governments about actual rates of production to track progress toward targets. OHCS oversaw the process of developing the methodology and could update it on a regular basis. The Oregon Office of Economic Analysis is another possible lead agency for this work in the long run, as they are involved in neither the funding nor regulation of housing and may be seen as impartial.

Overall, regardless of which agency or office manages it, the technical work of running and maintaining the OHNA model needs to be closely coordinated with implementation of the system (see recommendation 3.1 for more details about system administration).

1.2 Create production targets and indicators and measure progress towards outcomes in local Housing Production Strategies.

The proposed framework draws from the OHNA's Housing Production Index to set production targets that orient all partners toward common goals for market-rate and publicly supported housing production. Using the OHNA allows the state to benchmark housing production on an annual basis and informs local policy decisions, providing transparent, regular information about progress toward outcomes.

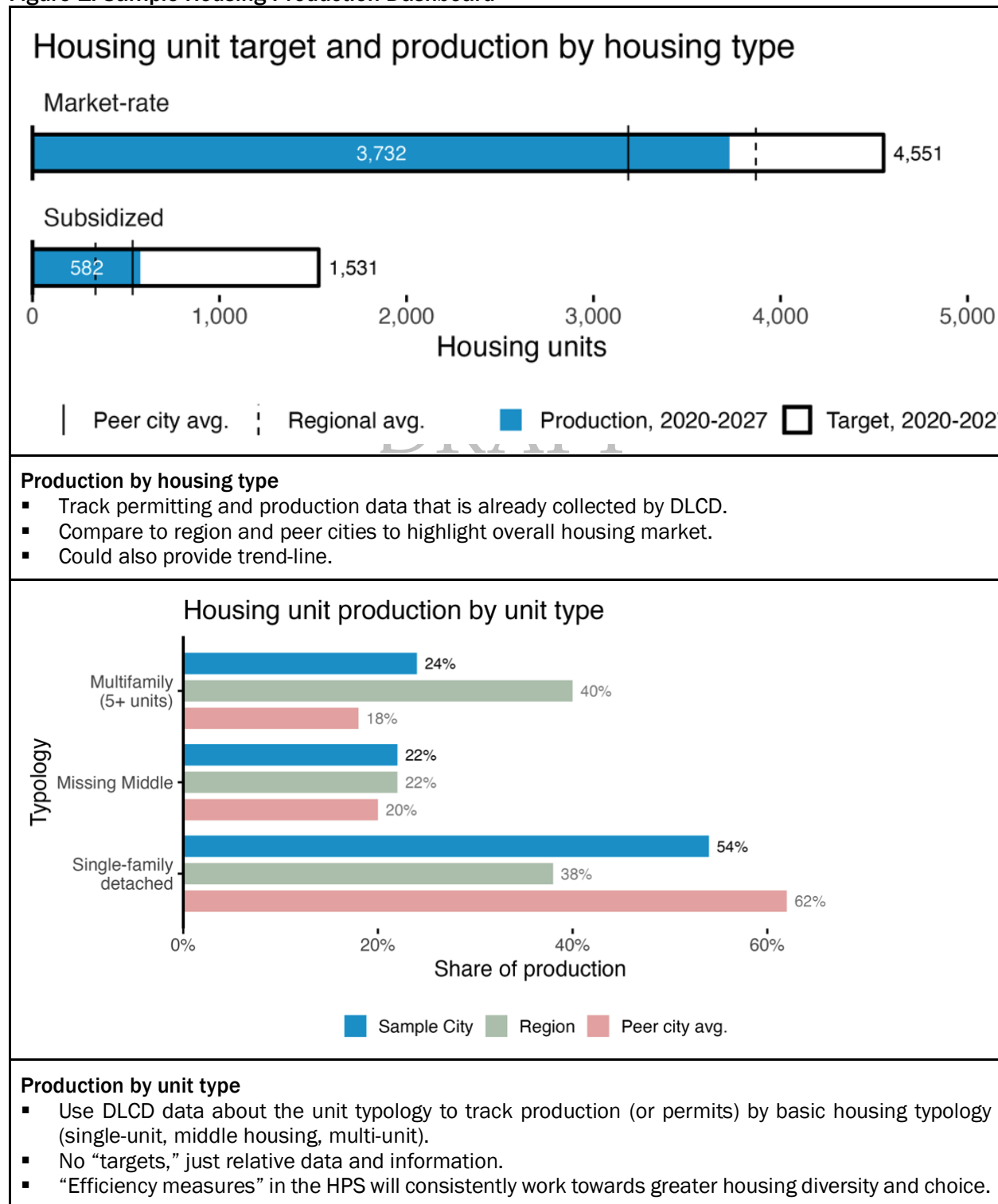
The OHNA methodology addresses inequities in the current system by allocating a share of regional demand to each community based on income, access to jobs, and population. In this way, the state and local governments can collectively begin to address chronic underproduction and geographic inequity at a regional scale. This will allow implementing jurisdictions to make informed decisions about how to plan for an increase in housing production and allow state agencies to partner with local jurisdictions to help fund and implement those plans. It also means jurisdictions will not have to wait until the end of a six- or eight-year planning cycle to consider housing production.

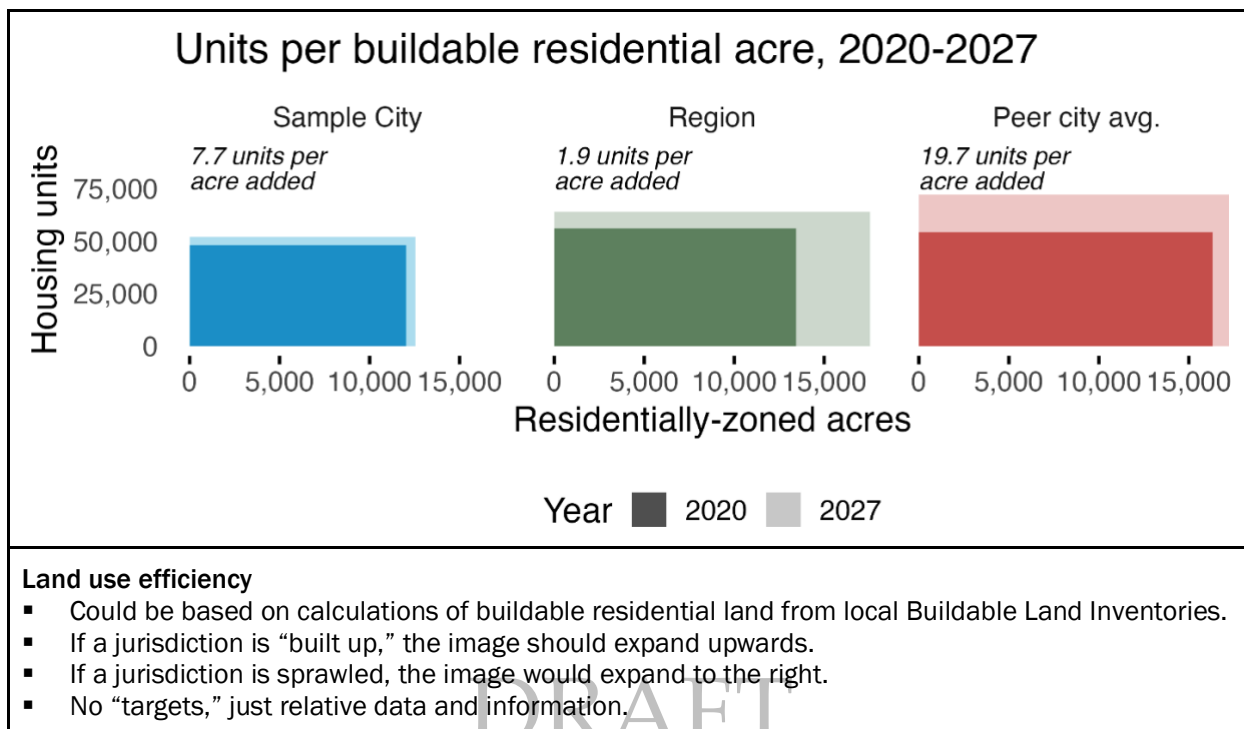
The state will not expect jurisdictions to hit their targets exactly in each cycle. However, if it is clear that a jurisdiction's production is much lower than in regional or market-based peers,⁷ there are likely locally specific development barriers that need to be addressed. A production-focused system will use measurement of progress toward targets to identify these problem areas, and

⁷ OHCS and DLCD are producing a technical report in the coming months that describes how market-based peer cities might be determined.

work proactively to address them, bringing state funding and expertise to support. Below is an example of what such a dashboard might look like, with commentary on the data options, for a fictional city.

Figure 1. Sample Housing Production Dashboard





The Housing Production Index (the basis for HPS targets) can be produced on an annual basis, so that cities that are on different planning cycles can have access to the most current data inputs as they begin their analyses. For an individual city, production targets will be set for the entire six- or eight-year time period, as either 30 percent of 20-year need (for cities on a six-year cycle) or 40 percent of 20-year need (for cities on an eight-year cycle) and will be based on Housing Production Index data available the year they begin their planning process. Progress toward the six- or eight-year target will be measured annually in the dashboard. New targets will be assigned in the next six- or eight-year cycle, based on updated data that reflect progress toward targets in previous cycles.

Targets should be set for both the total number of homes that should be constructed in six or eight years, and for the number of affordable homes. By tracking progress toward total unit production, the system recognizes and encourages the production of units affordable to all residents and of all types. Achieving these total production targets will help cities overcome past underproduction, which is necessary to allow the market to better meet the needs of middle-income residents. By tracking progress toward publicly funded units for lower-income Oregonians, the system recognizes that the market, on its own, cannot meet all housing need. Even in a well-supplied market, these units will need public support, as market-rate units are unlikely to filter to these levels of affordability in a timeframe that will provide real relief to Oregonians in need.

A few considerations about determining thresholds for measuring publicly supported affordable units:

- We recommend using one income category (under 60 percent of Area Median Income, AMI) for tracking “affordable homes.” While there is substantial need for housing for the lowest income Oregonians (with incomes below 30 percent of AMI) it is not practical to track the production of units at these lower levels of affordability. It is common to add rent subsidies to help very low-income residents access units that may technically be rent-restricted to those below 60 percent of AMI, rather than to build units that are rent-restricted below 30 percent of AMI.
- In some instances, units above 60 percent of AMI are also publicly supported, with the goal of supporting middle-income or home ownership access. It is worthwhile to consider whether and how these publicly funded units can “count” toward meeting targets for “affordable” units.

Additionally, the OHNA model will track specific indicators of housing outcomes that can enable jurisdictions to better understand and support strategies designed to overcome inequities in the housing market. The pilot methodology included extensive data analysis and documentation for cities across the state on indicators of housing outcomes that should be maintained as part of the OHNA dashboard going forward. These included cost burden, tenure, and other factors, by race, ethnicity, age, and disability status.

Additional indicators can and should be added to the dashboard, such as segregation, displacement, a deeper look at housing for people with disabilities, greenhouse gas emission reduction, or climate resilience, based on the priorities established by the Legislature and through rulemaking for implementation. The forthcoming technical report will describe in more detail the data available to evaluate housing outcome disparities by race, ethnicity, age, and disability status, and offers a few example statistics and graphics. The report will also summarize the data limitations and ways to show as much granularity as possible for smaller geographies.

Overall, the dashboard is envisioned as an accessible, publicly available web-based data interface that will provide relevant housing production and outcome data for each relevant geography. The dashboard reporting is a critical evaluative tool that will inform needed refinements to a local jurisdiction's Housing Production Strategies. Over time, the dashboard will also help jurisdictions across the state learn from one another about the types of policy and regulatory approaches that are working well and will provide a simple and transparent way for community members to track progress.

Consideration for Metro

Adopting the OHNA methodology to determine statewide housing need will need to operate somewhat differently within the boundaries of the Metro Special District in the Portland region. The Metro Regional Government holds statutory responsibility for coordinating forecasts within its urban growth boundary. This entails Metro completing a regional forecast and distributing expected growth to its constituent cities and counties. This system has proven largely effective for integrating land

use and transportation planning, resulting in livable communities and reduced greenhouse gas emissions. Metro and the region's cities have also developed a distinct system for identifying and planning for UGB expansions that includes urban and rural reserves, as well as concept planning for new urban areas. The region's approach recognizes that Metro is responsible for forecasts and managing the UGB while cities and counties are responsible for zoning and service provision. These differing responsibilities require coordination and a focus, not just on land need, but city readiness to urbanize land.

Metro should maintain its regional forecast coordination and growth management responsibilities with its ongoing focus on readiness and requiring concept planning for urban reserves before expanding the UGB. The current system has been effective for ensuring that UGB expansions result in housing development, but less effective in generating specific housing outcomes within communities, both in terms of overall production across the jurisdictions and affordable housing options.

To further emphasize housing production and affordability, state agencies are working to ensure that Metro aligns its methods and processes to reflect OHNA income categories as well as including housing underproduction and homelessness in its analyses. In addition, state agencies are recommending that Metro would develop an integrated approach where OHNA-derived housing need will inform local HPSs within boundaries, including production and affordable housing targets, while maintaining the regional Goal 14 processes to support regional growth management. This could offer significant improvements to Goal 10 implementation by allowing the state to engage with local jurisdictions on their housing goals, which in turn would serve as an input to the regional growth forecast and future decisions about land supply. These are significant changes to the current system and DLCD has requested that Metro review its processes to align state and regional goals and outcomes. A more detailed description of these changes will be provided in the final report at the end of 2022.

1.3 Strengthen the Housing Production Strategy to promote production and overcome barriers.

The existing rules and laws governing HPS implementation provide a starting place to ensure state and local governments are doing everything they can to promote housing production.⁸ According to House Bill 2003 (2019), the Legislature gave DLCD statutory authority to review, amend, and remand Housing Production Strategies. The current accountability system is designed to emphasize general *action towards addressing a need*, rather than achieving specific numerical targets or implementing any one particular action.

The implementation of the OHNA can build on this existing accountability framework and ensure that state agencies and local governments are taking meaningful and effective actions towards housing production. DLCD should incorporate a review of performance and progress towards housing production outcomes and OHNA targets as part of its current review process that occurs at development of a new HPS, midway through the HPS implementation cycle, and then again at the six- or eight-year update of the HPS. With this addition, the system would then be organized to define clear goals, transparently show progress toward those goals, learn together about which actions are helping to make progress over time, and adjust strategies accordingly.

⁸ Oregon Administrative Rules [660-008-0065](#) and [0070](#).

The proposed reforms focus community attention on building the housing we need where we need it (the desired outcome), rather than meeting administrative planning requirements that may or may not result in needed housing production. This makes HPSs – the set of identified local planning and policy changes to support housing production – the centerpiece of Goal 10 implementation.

The vast majority of housing is built by the private sector. At the same time, local plans and development policies play a significant role in creating the conditions for housing production. Given the scope of the state’s housing crisis, we recommend measuring the effectiveness of an HPS by the outcomes it produces. The goal is not to penalize jurisdictions for missing their targets – it will take time to dig ourselves out of our housing shortage – but to evaluate what is working and to course-correct when strategies are not leading to more housing for communities who need it most.

While cities are currently required to adopt strategies that comprehensively address identified needs, enforcement does not hold jurisdictions accountable if they do not implement a particular strategy or meet a specific production threshold. State administration of the HPS program progresses from collaboration, assisting jurisdictions in need of support, to increasingly more stringent measures should inaction continue. At the highest level of enforcement, if a jurisdiction is recalcitrant towards adopting meaningful strategies that address housing needs, DLCD has the authority to petition the Land Conservation and Development Commission (LCDC) to issue an enforcement order, requiring the jurisdiction to address the deficiency. These recommendations propose an important change to this system: integrating regular data-informed evaluation of progress toward targets and needed housing outcomes. This will help focus strategies and provide clear indicators of successful implementation. This additional data and information will help to focus collaborative conversations about the resources and strategies needed to overcome production barriers.

The state should partner with local jurisdictions and provide funding support (described in recommendation 2.1) tied to HPS implementation. Under the current and revised Goal 10 framework, cities above 10,000 in population are required to regularly complete housing planning requirements. It is important to emphasize that communities below 10,000 very often face significant and unique challenges with housing production. Establishing the same requirements that apply to larger cities is impractical because many smaller cities lack the financial and staffing resources needed to conduct regular housing planning processes. These draft recommendations seek to lift these communities up and provide them the support they need via the following actions and investments:

- Enable, but do not require, communities below 10,000 to adopt HPSs and access the same funding resources that support production as larger jurisdictions
- Enable county and regional entities to adopt county- or region-wide HPSs in coordination with cities below 10,000 to access the same funding resources

- Establish a program that enables DLCD to provide funding and capacity to smaller communities without requiring submittal of competitive grant applications
- Provide direct DLCD analytical support for smaller communities pursuing Goal 10 housing-related initiatives
- Establish more streamlined analytical requirements and policy responses to housing need for smaller communities

By establishing housing production as the primary indicator of progress, cities can orient their strategies toward the necessary policy changes, housing types, and measures of land readiness to enable housing outcomes and break the negative feedback loop that leads to underproduction in the current system. Each HPS will be unique to local circumstances, and local expertise is essential to figuring out which strategies make sense in a specific context. At the same time, we can organize local actions into categories that are consistent with statewide goals and best practices for building the housing we need in the places we need it. Tighter definitions of HPS categories will also allow for more consistent evaluation of their effectiveness and comparisons between peer cities.

The current administrative rule for HPSs requires jurisdictions to provide an interim, mid-cycle implementation report and a full report at the end/start of each cycle.⁹ We recommend maintaining these existing reporting functions and will seek to help jurisdictions fulfill the requirements.

As a starting place, the state will use the OHNA to provide baseline housing needs data that is currently the obligation of cities to generate, as described in recommendation 1.2 above. In addition, the table below provides an overview of the HPS elements that are currently required, and how we propose amending them with clarifications in existing rules and guidance. These changes will ensure that the actions are sufficiently and comprehensively focused on making land ready for development and for equitable housing production.

As implementation progresses, the program can build in additional support, flexibility and incentives for cities that are making substantial progress on housing production. Examples include reducing regulatory and administrative burdens faced by jurisdictions and increasing deference to future strategies adopted by high-performing jurisdictions.

⁹ Oregon Administrative Rule [660-008-0060](#).

Figure 2. Suggested Revisions to Existing Housing Production Strategy Elements

Current elements of the HPS	Recommended revisions
Contextualized housing need	The state will provide OHNA-generated baseline data that is currently an obligation of local jurisdictions. Cities may add data necessary to help inform strategies.
Production strategies	<p>When the HPS is adopted and approved, funding for implementing these strategies is unlocked. Strategies must address the following categories of actions:</p> <ul style="list-style-type: none">▪ Zoning and code changes▪ Reduce regulatory impediments▪ Financial incentives and resources▪ Land use efficiency measures▪ Development readiness▪ Fair housing (more details in recommendation 2.2) <p>To support development of these strategies, new guidance will be needed regarding fair housing, housing mix and land use efficiency measures, and DLCD's defined HPS program outcomes.</p>
Engagement	Unchanged - new state level guidance will be available to support Goal 1 implementation.
Fair housing narratives	New data will be available to support cities' fair housing strategies and reporting through the OHNA, measured as annual indicators of housing outcomes. Guidance is needed from DLCD to provide additional detail about how cities can use production-related policies and actions to advance fair housing.

1.4 Streamline land capacity and urbanization processes to expedite well-planned expansions.

A renewed commitment to implementing Goal 10 for housing requires careful consideration of the relationship to UGB expansions. It is important to note that the adoption of OHNA-generated production targets and HPSs are required for cities over 10,000, regardless of their existing built conditions and expansion context. In other words, jurisdictions that have achieved some level of infill or are “land-locked”, i.e., physically unable to expand their UGB, will still be responsible for a share of the overall need. Increasing housing supply and providing affordable options will require a combination of planning and policy actions at all levels, and when warranted, this should continue to include UGB expansions. We need to increase the certainty that expansions are needed, reduce the likelihood of challenges, and simplify and streamline this process.

Under the current system, jurisdictions conduct a Housing Capacity Analysis (HCA), which consists of two major components: a 20-year housing needs projection and a Buildable Lands Inventory. These two analyses answer a critical question: “Is there enough land within the UGB, zoned to sufficient capacity, to accommodate twenty years of projected growth?” If there is a deficiency of land, a jurisdiction must adopt measures to accommodate needed housing. First, the jurisdiction must adopt “efficiency measures,” which are policies that increase development within a UGB. Once these policies are exhausted, the jurisdiction must adopt a UGB amendment, in which they conduct a Goal 14 urbanization analysis to determine which area would best suit the identified need.

This current process projects past conditions into the future to determine whether increasing zoned capacity is necessary. It has emphasized characterizing density and counting the

hypothetical capacity of lands for housing at the expense of supporting the actual production of housing. This has created a dynamic in which housing production has been pitted in a zero-sum game with the protection of resource and industrial lands, and the resultant legal and political battles have hampered local and state policy response.

To put the emphasis on housing production, we recommend shifting the focus of land use efficiency measures from the Housing Capacity Analysis to the Housing Production Strategy for cities over 10,000 and strengthening guidance regarding housing efficiency and diversity. Making this change in the HPS can serve a dual function, providing a policy and planning roadmap for housing production while also making the Goal 14: Urbanization process for land supply simpler and more efficient.

With the HPS at the center of housing implementation, communities can consider plans and policies specifically in terms of meeting their housing production goals rather than in the broader context of the Housing Capacity Analysis and Goal 14-Urbanization compliance. Cities can consider where it makes sense to upzone or rezone, where they should make capital investments in community amenities, where they should focus investments in low-cost market rental preservation efforts and affordable housing production, and what kinds of housing types match the OHNA-derived need, to name a few examples. Cities can then adopt these updates into local planning documents, ordinances, and/or comprehensive plans.

Leading with production requires some adjustments to the sequencing of Goal 10 compliance within Oregon's land use program. The current system begins with a local, city-based analysis to determine how many new households might demand housing in the future, translates that demand into unit types and income categories based on past development and demographic trends, and then determines whether there is sufficient land supply to meet the estimated future demand. When there is a gap, this is addressed either through land use efficiency measures such as rezoning and/or by expanding the urban growth boundary. This determination is often made without consideration of the broader regional housing market, where economic growth is anticipated in the future, the current level of housing choice afforded in the region and other regional demographic distributions, desired equitable outcomes, fiscal impacts, or other systemic effects.

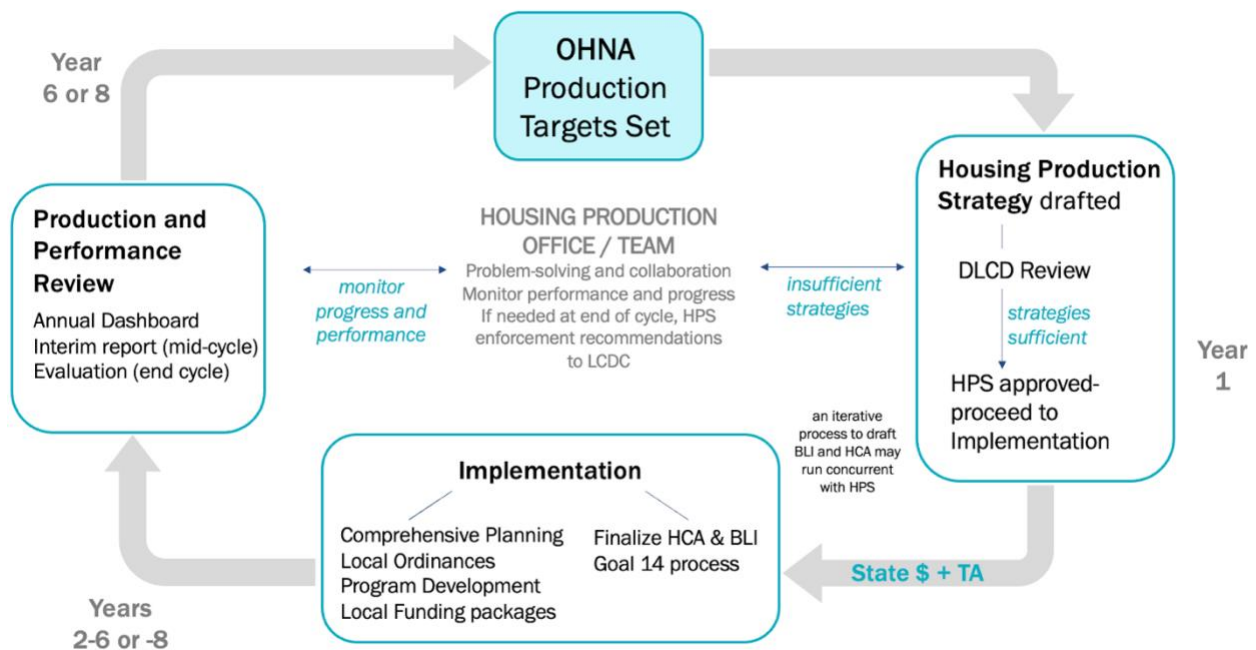
This means that production strategies are only factored in after the jurisdictions have forecast and planned for housing types and determined the need for additional land supply. The process does not take into account the impact that Housing Production Strategies – such as easing regulatory restrictions, minimizing procedural delay, preparing land for development, or increasing housing choices allowed in communities – may have on future development patterns.

This recommendation merges these two processes so OHNA targets inform HPSs, and implementation of those strategies can shape HCAs. In this way, HPS outcomes will inform future Buildable Lands Inventories (BLIs) and HCAs. While in practice the two processes may inform one another, conceptually, it is helpful to consider this improved Goal 10 implementation process as a cycle in which we transform a negative feedback loop to positive by centering

housing production targets. This outcome-focused and comprehensive housing production system will be implemented on a rolling basis, with new targets provided in each planning cycle. If a city is meeting the need and its rates of housing underproduction and cost burdening are declining, its future targets will reflect that progress.

Overall, these process revisions serve to streamline work for local governments by increasing certainty in land supply decisions, providing common datasets that are produced at the state level rather than locally, and creating a space for productive policy discussions in the HPS that are tied to a clear, measurable set of outcomes and targets.

Figure 3. Revised Housing Production Strategy Review Process



This recommendation also includes a series of refinements to Goal 10 that are currently being developed in the Housing Capacity Work Group, convened by DLCD in response to Legislative direction under House Bill 5202. This group is considering additional measures to streamline the HCA and UGB amendment process. DLCD has published a [discussion draft](#) Appendix A of these recommendations. This draft is also included as Appendix A. These recommendations seek to:

Increase local capacity and reduce administrative burden

- Shift more of the analytical burden from local governments to the state and provide more “off-the-shelf” analysis and tools for local jurisdictions, including the OHNA
- Provide more local discretion to plan for housing types and characteristics in a manner that is more responsive to estimated housing need
- Build technical capacity to support local governments, especially smaller and more rural cities, through funding and consultant/direct planning support

Build on existing tools and provide new tools to streamline the process while maintaining resource protections

- Facilitate and emphasize urban reserve and concept planning to streamline UGB amendments
- Incorporate the existing UGB land swap process into the HCA to remove lands within the UGB that are unlikely to develop within a 20-year horizon, while adding land that is more likely to develop
- Merge “efficiency measures” with the HPS to improve housing capacity and diversity while also decreasing administrative delay in pursuing amendments
- Establish a streamlined, small-scale UGB amendment option that leverages the delivery of affordable and diverse housing choices in exchange for regulatory streamlining

Reduce the basis and incentive to appeal UGB amendments

- Provide more pathways and clarity in statute and administrative rule that give jurisdictions more certainty in pursuing UGB amendments.

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

Overview: Addressing housing need at all levels

On its own, the market will not meet the housing needs of all Oregonians. Housing for the lowest income Oregonians will always require public support, and the funding gap for meeting that need is daunting. Additionally, in most parts of the state, denser development, infill development, smaller product types, development in rural communities, and redevelopment of underutilized or contaminated parcels are harder for developers to get permitted, successfully finance, and feasibly build. These units are very important to meeting overall housing need, as they provide important workforce housing and homeownership opportunities, and help build climate-resilient communities and add needed units to an undersupplied market.

In many areas, denser development, infill development, smaller product types, and the redevelopment of underutilized or contaminated parcels are harder to build and require public subsidy.

While housing generally becomes more affordable as it ages, we cannot count on this process for several reasons: (a) it can take generations to reach lower affordability levels, (b) it almost never produces safe, adequate housing for the lowest income levels, and (c) it can halt or even reverse when a market is undersupplied.

Digging out of our housing deficit will require ongoing funding support from the Legislature that includes and extends beyond the traditional categories of affordable housing. Investments should be targeted to the development types that the market would not otherwise produce on its own, such as those listed above. Without strong public investment in housing development, implementation of the OHNA will simply help us do a better job counting what we do not build.

2.1 Commit sustainable funding

While simplifying and rationalizing our planning system is an important piece of the puzzle, there are many other significant barriers to housing production that communities face. The market will not be able to solve the problem on its own, and local governments will need new tools to take on an expanded role in housing production. Success requires a new and expanded partnership between the state and local jurisdictions. Without significant state investment, OHNA implementation will likely be understood as an unfunded mandate that fails to provide the necessary conditions for local governments to comprehensively address housing need.

Oregon needs to produce about 27,000 housing units annually to meet the 20-year statewide production targets. In recent years the state has only produced 15,000-20,000 units per year.¹⁰ To close this gap, we need to look at which investments are best suited to overcome market barriers at all income levels with particular attention to the needs of historically underserved Oregonians.

Publicly Supported Affordable Housing

The most challenging unmet need to address is at the lower end of the income spectrum of households earning less than 60 percent of area median income (AMI). While public support is needed for many types of development, it is most acute to produce about 9,000 units per year that are affordable to low-income households. Lower-income Oregonians are affected most severely by the housing shortage and live with the greatest housing instability. This intervention point has the most urgent need for additional direct subsidies and support.

As the state's affordable housing financing agency, OHCS's funding mechanisms and allocation methodologies rely on complex and layered data and evaluation criteria designed to target resources toward strategic policy objectives. OHCS already prioritizes housing need in its allocation methodologies and can use the OHNA data to ensure that affordable housing production is equitably distributed across the state.

Affordable Housing Financing in Oregon is Changing

Affordable housing finance relies on layering local, state, federal, and philanthropic resources along with private equity and debt to fund development. These layered resources are necessary because the rents that are affordable to the intended tenants are below what it costs to develop and operate the property, leaving a "funding gap." This gap requires public subsidy or low-cost financing to pay for construction and ongoing operations along with large levels of mortgage or debt service payments.

To bring the impact of state resources to scale, OHCS has worked to maximize the use of federal Low Income Housing Tax Credits (LIHTCs) that are generated when the project includes financing

¹⁰ Source: U.S. Department of Housing and Urban Development's State of the Cities Data Systems (SCODS) database on Oregon housing permits. Between 2014 and 2021 annual permits have ranged from about 15,300 to 19,100 statewide.

with federally allocated Private Activity Bonds (PABs). Long an underutilized program, recent state and local investments in affordable housing were deliberately structured to leverage this 4% LIHTC and have successfully delivered new development. This increases utilization of the 4% LIHTC program has exhausted all built up capacity for the Private Activity Bond resource.

While the 4% LIHTC program will continue to operate and be a source of leverage for state Local Innovation and Fast Track (LIFT) investments, it is not a program that can continue to expand beyond that allowed by the annual federal Private Activity Bond authority allocated to Oregon. This means that the 4% LIHTC program cannot be used to increase the current rate of affordable housing development and future gap funding from the state or local jurisdictions is going to require either much higher per unit subsidy rates or some other source of fund leverage.

OHCS has managed unprecedented levels of investment in affordable housing

Despite federal constraints, OHCS hopes to continue recent momentum in affordable housing development. A major component of this is through a 2023-2025 funding request to the Oregon Legislature that includes \$160 million for LIFT rental housing production and another \$65 million for affordable homeownership. This would help create an estimated 1,200 rental units and 280 homeownership units, which, combined with the leveraging of available federal funds, would develop an estimated 4,000 new affordable homes for rent or purchase over the biennium. Additionally, OHCS is requesting more than \$260 million to support affordable housing development and preservation of affordable homes. Even with this significant investment request, these resources are primarily required to continue funding at the level of recent years and will unfortunately fund less than a quarter of the documented need.

In summary, the landscape for affordable housing funding in Oregon has changed, and action at all levels of government is necessary to meet the moment and provide the funding required to continue developing the level of affordable housing needed by low-income Oregonians.

Additional funding for affordable housing development is critical to meet the needs of Oregon's lowest-income households. The Legislature should consider the investments included in OHCS' 2023-25 Agency Request Budget as an absolute minimum to maintain current production levels, which fall far short of actual needs as outlined in the OHNA. More resources from the state will be necessary to make more progress towards meeting these needs, the funding is only a part of the solution.

Federal caps on LIHTC and PABs currently limit the ability to utilize state and local funds most effectively. The Oregon Legislature must look to Congress as vital partners in housing solutions and pursue changes that will maximize the benefit of state and local investment. Legislation such as the Affordable Housing Tax Credit Improvement Act would, among other things, make technical adjustments to the PAB and 4% LIHTC program that would foster equity investment from the private sector into affordable housing developments and effectively stretch state investments further to allow for greater production. Combining federal action with more state resources for LIFT or other OHCS funding programs would have a substantial positive impact, augmenting unit production in the state beyond even the unprecedented growth in recent years.

Other types of support

Chronic underproduction has made it much harder for more people to afford the cost of housing. This now extends well beyond the traditional categories of publicly supported housing and

affects higher income households as well. We need to pursue innovative tools that more effectively work with the market to support development types that might not be feasible. This can be especially true in smaller cities and more rural markets where infrastructure and land readiness costs are prohibitive for local budgets.

At a minimum, we recommend that the state coordinate existing funding sources that are currently distributed across many agencies and ensure that they are leveraged toward the goal of housing production. For example, Business Oregon already distributes some funds for the purpose of infrastructure development, and recently produced [an economic recovery plan](#) that highlights workforce housing as a major impediment to achieving resilience in the business community. The Oregon Department of Transportation acquires land as it invests in transportation infrastructure, some of which might be used for housing development. The Department of Environmental Quality administers a Clean Water State Revolving Fund that has recently been significantly expanded with federal infrastructure funding and could be leveraged to support housing production. There are many other examples. While coordinating these investments and activities would require administrative structures that do not exist, this strategy is the most straightforward near-term option to make progress toward production goals, in part because it does not require new revenue sources.

At the same time, we know that additional, sustained resources will be needed. We cannot meaningfully move toward meeting housing need without aggressive investment in desired housing outcomes. The following types of funding would be particularly helpful to consider. Further inquiry with developers, lenders, and other partners in the development process can help to clarify how incentive programs might best be structured, funded, and targeted to needed types.

- **Infrastructure and development readiness.** Local governments will require infrastructure investments to jump-start housing production strategies both within existing UGBs and in expansion areas. This could take the form of a revolving loan fund or grant program such as those that currently exist within Business Oregon and would offer significant incentives for jurisdictions to play a more active role in housing production. Additional funds could be made available on a competitive basis to jurisdictions successfully meeting housing production metrics, such as the number of units permitted.

Infrastructure funds would be used to support land acquisition, parcel consolidation, and infrastructure in expansion areas. It would also be available for retrofitting infrastructure for infill development, and master planning for larger sites. This could be structured like a block grant, such as those currently available for economic development. Ideally, these funds would be distributed with limited administrative requirements required from local entities, proportionate to the need identified in the OHNA.

- **Systems development charges (SDCs)** are fees charged to new development to help cover the incremental impact of new units and households on local infrastructure. While there is no question that these fees are necessary to the viability of public infrastructure, they also increase the cost of development and can be a barrier to production. A state-level

fund to buy down the cost of SDCs for both affordable and market-rate workforce housing could support development that would not otherwise occur. Such a fund would create an incentive for needed housing types without affecting the revenues that local governments depend on for basic services in their communities. By backfilling these costs, the state could help make more units viable and affordable. Additionally, this could be set up as a local matching fund to maximize available resources for the greatest impact. As a very rough starting-place estimate, an investment of \$100 million could incentivize the creation of 5,000 - 10,000 units depending on program structure, that would not otherwise be built.

- **Gap funding.** Most local governments have extremely limited capacity and few resources to take an active role in housing development. The state could help jurisdictions achieve specific outcomes in their HPSs by providing access to capital for gap funding and assistance for workforce and missing middle housing (e.g., duplexes, triplexes, cottage clusters, etc.). We recommend that the state consider a revolving loan fund, capitalized by state dollars, to help overcome local barriers to production such as site acquisition, preparation, or rehabilitation, or gap funding directly to a project that helps a jurisdiction meet its production targets.
- **Funding for implementing fair housing strategies.** Housing production is one of several tools available to help cities advance fair housing outcomes. With expanded guidance, cities may be including additional strategies that better connect people to units, facilitate homeownership, increase unit accessibility, and reduce discriminatory practices. To support policy development and implementation, some grant or technical assistance funding for local governments will be helpful. Additional incentives should be made available by the state to support affordable housing development in areas of concentrated affluence, where higher land costs are often a barrier to development. By more equitably distributing affordable housing across communities, we can work toward equitable and fair housing goals like dismantling segregation and preventing displacement, among others.
- **Technical assistance and capacity building.** Current staffing levels in local governments would be stretched beyond capacity by realizing the shared objective of catalyzing a rapid increase in statewide housing production. This requires a significant investment to support implementation of Goal 10, which would include technical assistance for needed plans and permit capacity to speed up the building process.

The Oregon Office of Economic Analysis estimates that 400-500 new planners and inspectors would be needed statewide for a 10,000 increase in annual housing starts. Currently, many cities fund their permitting staff at least in part through permit fees charged on development. This means that cities must staff up quickly when the development market picks up and may have to lay off staff when development cools. This is highly inefficient and can lead to permitting delays. Additional funding for permitting staff, perhaps conditioned on decreased permitting fees to development, could help overcome this challenge.

Additionally, the transition to an implementation-focused system suggests the addition of other types of local government staff, including planning staff who can create actionable Housing Production Strategies and coordinate policies and investments to support production. In the previous biennium alone, a historic investment from the Legislature in housing planning totaling \$4.5 million supported 92 housing-related projects in 75 jurisdictions. This translates to \$1 million of investment supporting roughly 20 new housing projects in about 15-20 communities. DLCD has submitted an Agency Request Budget to establish a continuous biennial budget of \$2.5 million for direct planning assistance to local jurisdictions in order to implement legislative housing direction. More funding support will directly result in increased local capacity to work on housing production, especially in small communities, and is an essential signal that the state is a true partner in housing production.

2.2 HPS implementation should advance fair housing outcomes

While housing abundance is a necessary precondition to housing equity, it is insufficient on its own. The people who are suffering most acutely from our housing shortage are disproportionately lower income and communities of color. They cannot be asked to wait another decade or more for Oregon to reverse the discriminatory policies and practices that have limited housing options for generations. Meaningful implementation of Goal 10 must provide a range of housing types for all income levels, distributed equitably around and within each region of the state, and for people of all ages and abilities. This provides access to employment and critical services and reduces the overall cost-burden to families and individuals. Centering the HPS in our Goal 10 system creates a new space for communities to address these issues directly.

Housing Production Strategies can serve as an important tool available to cities to help advance fair housing outcomes. Improved guidance to cities can help them consider how policies that influence housing production and the built environment intersect with fair housing outcomes. DLCD can begin by connecting existing, but currently separate, guidance regarding gentrification and anti-displacement into the HPS process, and cross-walking other existing guidance to more clearly demonstrate how the recommended tools can support land use efficiency.

Fair Housing Considerations

The Fair Housing Act prohibits discrimination in housing because of race, color, national origin, religion, sex (including gender identity and sexual orientation), familial status, or disability status.¹¹ Oregon's laws also protect people from discrimination based on source of income, domestic violence survivorship, and marital status.¹²

Furthermore, the Fair Housing Act requires the U.S. Department of Housing and Urban Development (HUD) and its recipients of federal financial assistance to Affirmatively Further Fair Housing, which means they must “do more than simply not discriminate... take meaningful actions to overcome patterns of segregation and foster inclusive communities.”¹³

OHCS, Business Oregon and the Oregon Health Authority receive federal funds from HUD and as such have an obligation to affirmatively further fair housing. These agencies work together to comply with this mandate by engaging in fair housing planning through a process called the Analysis of Impediments to Fair Housing Choice every five years.

The OHNA housing equity indicators are intended to help provide standardized data across Oregon communities to monitor housing outcomes on a range of equity and fair housing concerns. The goal is that this data will help jurisdictions in their fair housing and equity reporting requirements and help communities track progress and hold jurisdictions and the state accountable with easy-to-read annual reports on progress.

In addition, these recommendations align local actions in a Housing Production Strategy with the Fair Housing obligations of combating housing discrimination, overcoming patterns of segregation, and fostering inclusive communities free from barriers that restrict access to opportunity.

In developing HPSs, local jurisdictions and state partners will need to consider which actions to deploy in which places to generate the desired outcomes, such as assessing where upzoning can help to undo patterns of exclusion and underproduction, or where is it necessary to consider stabilization and anti-displacement measures. These issues can be addressed using a decision-making framework similar to the example below. In the near term, jurisdictions can estimate current levels of production and patterns of growth using their permit data, recent HCAs, or other easily available sources. Over time, the OHNA will provide data to help jurisdictions understand what actions are most effective in individual census tracts and within jurisdiction as a whole.

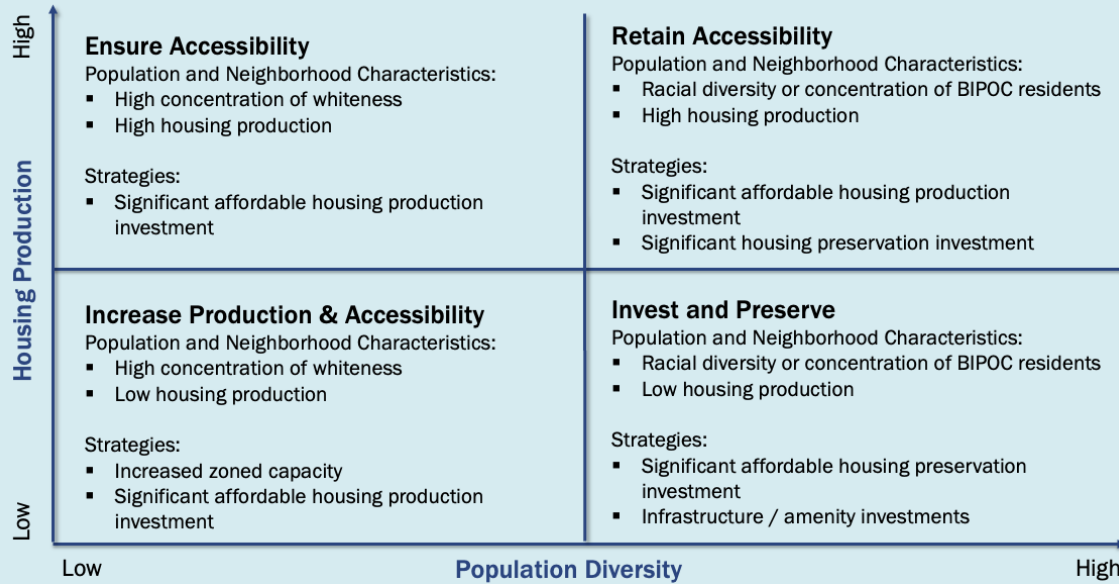
¹¹ U.S. Department of Housing and Urban Development. “Housing Discrimination Under the Fair Housing Act.” https://www.hud.gov/program_offices/fair_housing_equal_opp/fair_housing_act_overview.

¹² State of Oregon Bureau of Labor and Industries. “Civil Rights and Fair Housing.” <https://www.oregon.gov/boli/civil-rights/Pages/fair-housing.aspx>.

¹³ U.S. Department of Housing and Urban Development. “Affirmatively Furthering Fair Housing.” <https://www.hud.gov/AFFH>

Example Fair Housing Framework

Figure 4. Example Framework to Determine Strategies Needed for Fair Housing Production



The framework in Figure 4 is one way to think about organizing that guidance. On the vertical axis, the framework conceptually shows a range of housing production outcomes, from low production in slower growing or constrained environments to high production. On the horizontal axis, it conceptually shows community diversity, from low diversity, where there is a relative concentration of whiteness, to high. The fair housing challenges and solutions vary in each quadrant and so must the strategies. For example, areas with a high concentration of white households and corresponding concentration of affluence that have low housing production (in the bottom left-hand corner), restrictive zoning is likely reducing development capacity and should be increased. In the opposite corner, relatively high diversity combined with high housing production suggests a strong need for anti-displacement strategies and investment in preservation.

It is possible to place communities – either entire cities or census tracts – in these quadrants to provide a key input to cities as they complete their HPSs. DLCD’s forthcoming technical report outlining recommended changes to the OHNA Pilot Methodology will provide more details and examples. Many of the tools that might be applied to fair housing outcomes are already listed in HPS guidance but are not clearly cross-walked to desired policy outcomes nor to the market characteristics that are likely to drive neighborhood change.

Stakeholders should provide additional input and guidance on this framework as the OHNA recommendations advance. Opportunities for providing feedback are listed in the Conclusion section on page 33.

As described in the funding recommendations above, local governments will need new tools and technical assistance to plan and implement specific programmatic improvements aimed at fair housing outcomes and anti-displacement and gentrification. This could take the form of a specific housing equity fund.

Recommendation 3) Commit to working together with urgency

Overview: Dedicate state level staff to oversee and support housing production across the entire market spectrum

Currently, there is no specific agency of state government responsible for overall housing production, and many of the available regulatory tools are better suited to preventing unwanted developments than to encouraging those that are needed. As a result, the policy response to the current housing shortage has been disjointed, with siloed policy discussion and action occurring at several agencies without meaningful, systemic coordination between them or with local and regional partners.

A comprehensive, production-focused system needs leadership and coordination across the many entities engaged in some aspect of housing production. Simply put: someone needs to be in charge, to: (1) ensure coordination of available funding sources and regulatory authorities (currently spread across many agencies) toward meeting production targets, and (2) implement the OHNA model, including ongoing management of the data that measure progress toward targets.

Figure 5. State agency roles in housing production.

Agency	Roles in Housing Production
Oregon Housing and Community Services	Affordable Housing Finance, Fair Housing
Department of Land Conservation and Development	Planning & Zoning, Public Facilities Planning, Land Use Regulation
Department of Administrative Services	Economic Analysis
Oregon Department of Transportation	Integrated Transportation and Land Use, Transportation Infrastructure and Planning
Department of Environmental Quality	Water and Wastewater Infrastructure, Environmental Regulation
Business Oregon	Infrastructure & Capital Improvements Funding, Economic Development, Community Development Block Grants
Bureau of Labor and Industries	Occupational Licensing, Fair Housing
Department of Consumer and Business Services	Building Codes, Lending & Financial Regulation

3.1 Develop interim administrative structures, evaluate options for longer-run structures

Coordinated statewide action would require sufficient authority to (a) convene agency leadership, (b) provide specialized housing production expertise to local partners, (c) direct funding for housing and public infrastructure, (d) provide regular oversight to the Legislature and Governor's office, and (e) develop and refine policies to achieve desired housing production outcomes. Establishing an administrative structure to coordinate state agencies warrants careful consideration weighing the advantages and disadvantages of different structures, while navigating shifting authority and responsibility between different functions of state government.

Example inter-agency coordination models currently in use in Oregon

- **Regional Solutions**–Inter-agency teams established by executive order, working with local leadership on the ground to advance community and economic development. These teams could be provided with a more specific mandate to help meet housing production targets in their regions.
- **Transportation and Growth Management Program**–A joint program of Oregon Department of Transportation (ODOT) and DLCD that deploys key staff to create thriving, livable places with diverse transportation choices.
- **Governor’s Council on Wildfire Response**–This broad council of cross-sector leaders is staffed at a high level within the Governor’s Office, with the charge of reviewing and updating Oregon’s current model for wildfire prevention, preparedness, and response.

While there are several models that provide useful examples, it will take time and careful consideration to arrive at the right solution. Because the needs are urgent, we recommend establishing an interim structure aimed at meeting immediate needs, through the creation of an interagency Housing Production Team and administrative leadership position. The leadership of this team should be housed temporarily inside of DLCD, though some of the staff assigned to the team may be drawn from other agencies. This team should respond to a legislative mandate that directs agencies to coordinate their existing and potential new funding sources and regulatory authorities toward the goal of housing production. This provides a clear focal point for communicating and partnering with local governments.

The Housing Production Team should have (or be able to contract for) expertise in affordable housing finance, market rate development, permitting and building code, land readiness, fair housing law, community engagement, and development policy analysis. The team would deliver a commitment to federal and state requirements for fair housing, including anti-displacement tools and other housing equity strategies. This would also facilitate better coordination of housing production with broader policy initiatives, including transportation, equity, infrastructure, and climate.

In the near-term, this team would function in two ways:

- A. As technical experts that can be called on to address specific site development challenges or policy questions in partnership with local governments. Local jurisdictions face numerous constraints that inhibit the development of sites that would otherwise support housing production and receive minimal support from the state in technical or financial assistance to address such constraints. This team would provide varied and specialized housing production expertise that can diagnose and overcome development barriers through policy and investment interventions. It should also be able to deploy technical assistance and consultant support to ensure that it can help unstick complex development sites or evaluate thorny policy questions.

- B. As an accountability and review team, to oversee progress toward goals in HPSs. The team would recommend actions that may be missing in local strategies or need more attention on a regular review cycle. In its accountability function, we recommend that the inter-agency Housing Production Team incorporate the existing staff review of HPS documents. This will enable the team to partner with local jurisdictions on specific actions identified in the HPS to ensure they have the resources and state coordination needed for implementation. If necessary, they would also be able to recommend enforcement orders for cities that are not meeting targets and are not taking sufficient action to address those deficits.

Implementing the OHNA will require a high degree of trust, communication, and transparency, as jurisdictions become accustomed to the new methodology. We recommend further discussion around the best models for building confidence, such as community and stakeholder engagement, contracting of experts in the field, and regular reporting to the Legislature.

3.2 State and Metro also develop HPSs

The goal in centering housing production and outcomes in Goal 10 implementation is to remove barriers to housing development and to align capacity for better outcomes. This is true at both the local level and across state and regional government. To ensure that we are bringing all resources to bear in addressing the housing crisis, we recommend that Metro and the state government conduct HPSs that would:

- Define new regional and state actions to meeting need, such as the LIFT affordable housing development program or Metro's voter-approved measures for affordable housing and permanent supportive housing
- Identify existing resources that could be invested or leveraged for better outcomes
- Coordinate with local implementation
- Report to legislature on regional and state progress
- Identify new opportunities for action

In addition, counties and other regional entities could opt-in and collaborate with cities, especially those with populations under 10,000, making them eligible for funding to address shared housing priorities. This would be especially helpful in smaller, more rural communities.

A coordinated state HPS would also help address significant data gaps. At present, we do not have an accurate picture of how much housing exists or is being produced statewide. An Oregon HPS would create a baseline understanding and data standards to track new production and the equitable distribution of housing options. This would allow for comprehensive tracking of the state's progress towards closing the gap in underproduction.

Additionally, many of the policy issues DLCD and OHCS heard through engagement require follow-up and collaboration with other state agencies. See Appendix B for a detailed list of DLCD's follow-up policy work. These and other areas of follow-up work highlight the need for

a statewide HPS in which the state is consistently working to promote housing production and evaluate progress towards equitable outcomes.

A number of key issues still need to be addressed, such as who is responsible for developing the strategy and how it interacts with the statewide housing plan. In the Metro region, a key question remains about how a regional HPS might complement local strategies. See a call out box on page 14 for additional considerations for the Metro region.

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III. Conclusions and Next Steps

Housing underproduction is a systemic, nationwide challenge that has been decades in the making. Nearly every state has failed to produce enough homes to meet the need. In this respect, even with its comprehensive land use program, Oregon is not unique. Along with the other coastal and intermountain west states that have seen rapid population growth, Oregon's situation is dire. We rank fourth worst in states in terms of underproduction as a share of total housing units, better only than California, Colorado, and Utah.¹⁴

This crisis is felt throughout Oregon, whether in large urban areas with skyrocketing rent and home values, in more rural communities struggling to find construction workers and developers, or on the coast where the local workforce competes for housing with short-term rentals. While some important details remain to be resolved in the coming months, we believe that these recommendations will position Oregon to make the systemic changes necessary to confront this challenge.

Few policy imperatives are more important to Oregon's future than increasing the pace of building new homes. Housing production is essential for Oregon's economic competitiveness, helping families prosper, and improving community resilience. Simply producing the units needed to meet current demand could generate up to \$40 billion in additional economic growth, a boost that would benefit us all.¹⁵ Achieving this will take hard work, coordinated action and investment from many partners in the public and private sectors, and at the state, regional, and local levels.

The draft recommendations described in the pages above are complex and comprehensive. Implementing them will require significant investments, changes to state statute, rules, and guidance, and will likely need to be sequenced over more than one legislative cycle. To make near-term progress on their implementation, we recommend that the Legislature consider bills that advance the bipartisan goal of building more homes, as follows:

- A. **Redefine Oregon's Planning Process for Housing.** The state should establish the OHNA as the foundation for Goal 10 planning processes in state statute. This should, at a minimum:
 - Adopt core components of the OHNA methodology into statute, including that the OHNA must account for underproduction and an estimate of housing needed to serve people experiencing homelessness, must be allocated based on regional incomes and job distributions, and must be reviewed and updated with appropriate new data on a regular cycle. (Recommendation 1.1)

¹⁴ Up for Growth, 2022, Housing Underproduction in the U.S. 2022, <https://www.upforgrowth.org/underproduction>

¹⁵ See footnote 4 on page 4.

- Create administrative capacity to run the OHNA and track progress toward targets on an annual basis. This could be in OHCS, or in the Office of Economic Analysis. (Recommendation 1.1)
 - Direct cities to replace local projections of need in Housing Capacity Analyses with OHNA-generated 20-year need numbers, by income, produced by the state. (Recommendation 1.1 and 1.4)
 - Direct cities to strengthen Housing Production Strategies by requiring actions that address housing barriers and advance fair housing outcomes (Recommendation 2.2) and by incorporating production targets based on the data provided in the OHNA (Recommendation 1.2).
- B. Coordinate the state response.** The state should establish an interim Housing Production Team and administrative leadership position, temporarily inside of DLCD. The housing production issues facing many communities demand an immediate state response. This team should be deployed as quickly as possible to achieve early housing production wins by helping cities unstuck challenging development sites, removing barriers and focusing state resources. Additionally, this team should be charged with developing the first ever statewide Housing Production Strategy, which will serve to shift the state's energy and efforts to this urgent challenge. Over time, as rules are developed and take effect, this team can begin to function in its review process to assist with HPS implementation and accountability. (Recommendations 3.1 and 3.2).
- Provide position authority and Legislative direction for staff at other agencies to work with the newly established Housing Production Team toward the goal of housing production. Meeting production goals will require coordinating existing funding sources to meet housing need, working across agencies to overcome site permitting challenges, and providing support to local staff to overcome affordable housing funding challenges. (Recommendation 3.1)
- C. Create innovative funding and finance solutions.** The state should establish new housing production funding mechanisms aimed at middle housing or workforce housing development. Several stakeholder forums are considering innovative funding and financing mechanisms that are resonant with the recommended fund types in this report. (Recommendation 2.1)
- D. Address housing capacity and land supply.** The state should make statutory changes necessary to make needed UGB expansions more efficient and certain including adjustments to statute, direction to DLCD and LCDC, and allocation of funding and resources for implementation to continue work related to Goal 10 and facilitating timely expansion of Urban Growth Boundaries when a need is identified. (Recommendation 1.4) See Appendix A for this draft report.

The process of developing a Statewide Housing Production Strategy will inevitably uncover additional changes that are needed, and iterative improvements should be expected. More work

will undoubtedly be required in future Legislative sessions. The Housing Production Team may need to evolve as we learn from its initial successes. Additional funding sources are required to make meaningful progress. Further accountability mechanisms may be needed. However, the comprehensive legislative package described above would be a substantial movement in the right direction, putting Oregon on the trajectory to lead the nation with a new approach to housing production focused on meeting the needs of all Oregonians. These recommendations, and the associated increase in housing production, will only succeed with sustained Legislative leadership and action in the 2023 Session and beyond.

Next Steps and Opportunities for Feedback

These recommendations represent the latest thinking as of August 31, 2022. DLCD and OHCS look forward to continuing conversations with stakeholders over the coming months to further solidify the recommendations.

As an immediate next step, DLCD and OHCS are holding three engagement sessions with interested stakeholders and the general public. These sessions will include a summary of what was heard during spring and summer engagement and how input has shaped draft OHNA recommendations. The sessions will include opportunities to share feedback, reflect on next steps, and ask questions. Figure 6 provides details of these upcoming engagement sessions.

Figure 6. OHNA Implementation Engagement Sessions

Date	Time	Participation Information
Wednesday, September 7, 2022	12:00 – 2:00 PM	Zoom Meeting Link: https://kearnswest.zoom.us/j/84532420896?pwd=N2dpdXRjeitOVk93MDhKcTlpeWFFdz09 Meeting ID: 845 3242 0896 Passcode: 574582 Dial-in Number: 253-215-8782
Friday, September 9, 2022	9:00 – 11:00 AM	Zoom Meeting Link: https://kearnswest.zoom.us/j/89559166329?pwd=K3hhRjAxZTFrbHlTVWNURmwyQ3BRUT09 Meeting ID: 895 5916 6329 Passcode: 869850 Dial-in Number: 253-215-8782
Monday, September 12, 2022	3:00 – 5:00 PM	Zoom Meeting Link: https://kearnswest.zoom.us/j/86027732507?pwd=VmxmQTB4ckVWUVJNWTZSWnhYRDdRUT09 Meeting ID: 860 2773 2507 Passcode: 594729 Dial-in Number: 253-215-8782

In addition, stakeholders can submit written comments on this draft during a public comment period from September 1, 2022, to October 3, 2022. Comments can be submitted to housing.dlcd@dlcd.oregon.gov or at this link: <https://forms.gle/1kJ4RwfxqE59mFxWA>.

IV. Appendices

Appendix A. Housing Capacity Discussion Draft Recommendations

Appendix B. Follow-up Policy Work - Basis for a Statewide
Housing Production Strategy

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Appendix A. Housing Capacity Discussion Draft Recommendations

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Housing Capacity Discussion Draft Recommendations

Published August 24, 2022

The purpose of this document is to outline a series of recommendations intended to respond to legislative direction to streamline the state's housing planning process, particularly as it relates to growth management. These recommendations include a range of statutory and programmatic changes that would streamline the overall planning process including Buildable Lands Inventories (BLIs), Housing Capacity Analyses (HCAs) and Urban Growth Boundary (UGB) amendment processes. The recommendations are organized by the four primary issues the Legislature tasked DLCD to address (HB 5202, 2022):

1. *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.*
2. *How the process and level of data necessary to establish the need for UGB amendments can be streamlined, while considering the protection of resource lands.*
3. *How the regulatory review of UGB amendments can be streamlined, while considering the protection of resource lands.*
4. *How to fund additional capacity in cities below 10,000 to plan for and work to facilitate the development of housing in their communities.*

These recommendations are not yet fully developed. This document summarizes these potential policy options at a high level for the purpose of facilitating discussion among the Housing Capacity Work Group and the broader community to inform policy refinement before DLCD submits the final version to the Legislature before the end of the year. The project team welcomes specific refinements, suggestions, and proposals to improve the recommendations and fulfill the direction prescribed by the Legislature.

Current UGB Amendment Process

For UGB Amendments related to housing, this process begins with a Housing Capacity Analysis, which consists of two major components: a 20-year housing needs projection and a Buildable Lands Inventory. These two analyses answer a critical question: "Is there enough land within the UGB, zoned to sufficient capacity, to accommodate twenty years of projected growth?"

If there is a deficiency of land, a jurisdiction must adopt measures to accommodate needed housing. First, the jurisdiction must adopt "efficiency measures", which are policies that increase development within a UGB. Once these policies are exhausted, the jurisdiction must adopt a UGB amendment, in which they conduct a Goal 14 analysis to determine which area would best suit the identified need.



Fig 1. Diagram of the Housing Capacity Analysis Process



Recommendations Summary

The recommendations outlined in this document are intended to streamline the overall process by working towards the following outcomes:

Increase local capacity and reduce administrative burden

- Shift more of the analytical burden from local governments onto the state and provide more “off-the-shelf” analysis and tools for local jurisdictions, including the Oregon Housing Needs Analysis;
- Provide more local discretion to plan for housing types and characteristics in a manner that is more responsive to estimated housing need; and
- Build technical capacity to support local governments, especially smaller and more rural cities, through funding and consultant/direct planning support.

Build on existing tools and provide new tools to streamline the process while maintaining resource protections

- Facilitate and emphasize urban reserve and concept planning to streamline UGB amendments;
- Incorporate the existing UGB land swap process into the Housing Capacity Analysis to remove lands within the UGB that are unlikely to develop within a 20-year horizon while adding land that is more likely to develop;
- Merge “efficiency measures” with the Housing Production Strategy to improve housing capacity and diversity while also decreasing administrative delay in pursuing amendments; and
- Establish a streamlined, small-scale UGB amendment option that leverages the delivery of affordable and diverse housing choices in exchange for regulatory streamlining.

Reduce the basis and incentive to appeal UGB amendments

- Provide more pathways and clarity in statute and administrative rule that give jurisdictions more certainty in pursuing UGB amendments minimizing the risk of appeal where land for housing supply is needed.

1. Utilizing Land within the UGB

Amend the “Efficiency Measures” statute (ORS 197.296 (6)(b), (7), (8), and (9)) and Housing Production Strategy statute (ORS 197.290) to specify that efficiency measures be implemented as part of the Housing Production Strategy. Clarify that efficiency measures do not need to be adopted concurrently with a UGB amendment, provided a local jurisdiction is in substantial compliance with an adopted Housing Production Strategy.

Currently, “efficiency measures” are the first step jurisdictions take when they identify a land capacity deficiency. While efficiency measures are an important tool to increase the production and diversity of housing and reduce impacts to resource land, current sequencing requires a jurisdiction to spend significant time and resources to develop and adopt these measures before they can adopt a UGB amendment.

However, as many Housing Capacity Work Group members have noted, the current statute has significant overlap with the Housing Production Strategy. Merging the efficiency measure requirement into the Housing Production Strategy eliminates this redundancy and achieves two outcomes concurrently:

1. This update would provide a systematic process of review and implementation of efficiency measures over a six- to eight-year horizon. This update would enable a more thorough and structured evaluation of the efficiency measures a city plans to adopt.



2. The update would eliminate a time- and resource-intensive step between a Housing Capacity Analysis finding of land capacity deficiency and a UGB amendment. Rather than implementing a suite of efficiency measures and an amendment to the UGB all at once, cities would instead be required to demonstrate that they have adopted an HPS that is responsive to the identified housing need and have made progress towards implementing the efficiency measures therein.

Critically, this change to statute decouples an Urban Growth Boundary amendment from adoption of efficiency measures. Historically, the UGB amendment was a de facto regulatory check to ensure compliance on efficiency measures. Adopting efficiency measures as part of the Housing Production Strategy means that there will need to be a clear accountability mechanism that ensures jurisdictions meaningfully follow through on the efficiency measures identified in the HPS.

This HPS accountability structure already exists; regulatory enforcement begins collaboratively and ramps up if a jurisdiction delays implementing policies to address housing need. This system can be readily modified to more clearly articulate a wider suite of efficiency measures that support equitable housing production, including rezoning of underutilized employment lands, public facilities & infrastructure planning, and reducing cost and delay to housing production, among other measures. Additionally, the existing HPS accountability system can be strengthened through the addition of enforcement tools that articulate clear actions, timelines, and consequences for non-compliance, such as the application of a statewide Model Code, as was utilized in the implementation of House Bill 2001.

*Direct the Land Conservation and Development Commission, in consultation with Oregon Housing and Community Services, Oregon Department of Transportation, Department of Environmental Quality, Oregon Health Authority, and Business Oregon, to adopt administrative rules and guidance to implement **Efficiency Measures via the Housing Production Strategy**. The resultant rules must provide clear parameters on the types and extent of efficiency measures needed for varying sized jurisdictions and emphasize the following considerations:*

- (a) Recognition of local action on housing in response to direction from the Legislature or Governor's Office as efficiency measures, including implementation of middle housing code amendments (ORS 197.758) and Climate-Friendly and Equitable Communities rules;*
- (b) Increasing housing diversity, efficiency, and affordability;*
- (c) Enhancing flexibility in housing choice and location;*
- (d) Reducing cost or delay and increasing procedural certainty for the production of housing; and*
- (e) Preparing land for development or redevelopment, including:*
 - (A) Public facilities planning and other investment strategies that increase the development-readiness of land for housing production;*
 - (B) Site preparation, financial incentives, or other incentive-based measures that increase the likelihood of development or redevelopment of land; and*
 - (C) The redevelopment of under-utilized commercial and employment lands for housing or a mix of housing and commercial uses.*

This recommendation will direct the Land Conservation and Development commission to adjust existing administrative rules to provide significant clarification surrounding "efficiency measures" and their implementation through the Housing Production Strategy. The parameters articulated in the recommendation will better recognize a broader range of actions cities can take to support



diverse housing production and land readiness. Implementation of this recommendation would also provide “credit” for jurisdictions that have implemented recent Legislative and Gubernatorial direction on housing.

2. Establishing Need

*Amend the “**Needed Housing**” statute (ORS 197.303) to require cities to plan for housing allocations provided in the Oregon Housing Needs Analysis and to provide more local discretion to plan for future housing types and characteristics in a manner that is responsive to need and market feasibility, rather than based on past development trends.*

Currently, cities conduct extensive analysis as part of the Housing Capacity Analysis to establish 20-year housing needs projections based on a population projection provided by the Portland State Population Research Center and local market data. Current statute requires local governments to appropriately characterize *how much* and *what types* of housing they will need through detailed analysis, based on future growth and past development trends.

The current framework places a heavy analytical burden on local governments, introduces risk of appeal of adopted needs projections, and binds jurisdictions to planning for housing characteristics and types that may not be responsive to the current needs or financial capabilities of both current and future households in their communities.

The implementation of the OHNA shifts that analytical burden to the state. This change would have the dual benefit of reducing the need for time and resource extensive local analysis and associated bases for appeal. Additionally, the estimates provided in the OHNA account for many factors not currently taken into consideration – including housing for people experiencing homelessness, second homes, and housing underproduction – all of which substantially increase housing needs projection numbers.

Clarifying a greater emphasis on planning for housing types and characteristics that are realistic, responsive to identified needs, and market feasible, rather than based primarily on past trends, enables jurisdictions to have much greater discretion to make important policy decisions about the planned future mix of housing in their communities.

However, it is important to distinguish that estimations of the zoned capacity of developable lands will continue to be based on past production trends to avoid artificially inflating the actual capacity of lands with “phantom” or “paper” capacity that is unlikely to be realized. As discussed below, these recommendations include several refinements to the Buildable Lands Inventory that provide local governments tools and assumptions that more accurately assess the capacity of lands within the UGB.

Finally, the Legislature could strengthen this option by directing DLCD to adopt safe harbors in administrative rule or publishing guidance on the development feasibility of various market-rate and affordable housing types and characteristics that local jurisdictions can plan for without risk of appeal.

*Adjust the “**Buildable Lands**” statute (ORS 197.296) to reflect a more realistic estimation of 20-year residential land supply and minimize inclusion of “phantom” capacity (i.e. identified capacity that is not likely development feasible) in buildable lands inventories.*

Current state law on buildable lands inventories (ORS 197.296) is already relatively optimized to reduce the inclusion of “phantom capacity” in local Buildable Lands Inventories (BLIs). However, there are several amendments and clarifications to the statute that can further reduce this “paper



supply". These amendments are also intended to simultaneously provide cities more flexibility to adopt policies that increase housing capacity and diversity.

- Clarify that, upon remand of a Housing Capacity Analysis by the Land Use Board of Appeals, the 20-year planning horizon must restart to reflect a full 20-year period, rather than continue with the shortened horizon and associated diminished housing needs projection caused by appeal-related delay;
- Clarify that "partially vacant" parcels less than two acres in size may be considered "infill or redevelopment" sites under ORS 197.296(4)(a); and
- Enable the application of market factor amendments reflecting the reduced likelihood of development or redevelopment in light of regulatory or market constraints.

*Direct the Land Conservation and Development Commission, in consultation with Water Resources Department, Oregon Department of Transportation, the Oregon Health Authority, and the Department of Environmental Quality, to adopt administrative rules outlining revised methodological assumptions and safe harbors for estimating the **capacity of buildable lands** in consideration of analysis accuracy, replicability, cost, and ability to respond to local market conditions. This includes:*

- (a) Capacity estimates for areas that are partially vacant or available for infill and redevelopment;*
- (b) Capacity estimates for areas that are rezoned to allow greater housing variety;*
- (c) Appropriate omission of constrained and goal-protected lands from land capacity tabulations, consistent with best available mapping data; and*
- (d) Appropriate market factor amendments reflecting the reduced likelihood of development or redevelopment in light of regulatory and market constraints, including but not limited to:*
 - (A) Parcelization;*
 - (B) Infill and redevelopment;*
 - (C) Landowner-related inhibitions to housing production, including codes, covenants, and restrictions (CC&Rs); and*
 - (D) Regulatory constraints, including lands subject to state wetland regulations.*

The intent of this rule refinement is to provide local jurisdictions more sound methodological options to complete a Buildable Lands Inventory with greater certainty that the assumptions will not serve as the basis for appeal of the analysis or UGB amendment. This will have the effect of providing cities more options to remove "phantom capacity" from their inventories to reflect a more realistic inventory of capacity within UGBs.

3. Regulatory Review of UGB Amendments

*Adjust the Urban Reserve statute (ORS 195.145) and direct the Land Conservation and Development Commission to amend administrative rules specific to **urban reserves and concept planning** (OAR Chapter 660, Division 21) to increase flexibility and ease of implementation.*

In discussions with cities that have recently completed UGB amendments, a common theme is that cities that had analyzed and designated urban reserves to accommodate future UGB amendments were able to both expediently move through the amendment process and much more likely to realize development on that land. The difference in outcomes between cities was often significant, with many cities with urban reserves reporting substantially shorter process timelines with relatively minimal risk of additional cost and delay. City staff cited several reasons for this:



1. Urban reserve and concept planning increases certainty that a proposed UGB amendment will be successful, by mitigating potential legal controversy surrounding the priority scheme (ORS 197A.320, 197.298 for Metro). In ORS 197.A.320, Urban Reserve land is the first priority of land to be considered when expanding a UGB;
2. Urban reserve planning reduces analytical burden for cities seeking UGB amendment by front-loading many of the priority and locational factor considerations before a need for a UGB amendment is identified;
3. Urban reserve planning increases certainty in infrastructure planning and delivery by establishing a more clear and orderly transition of rural lands to urban uses over a longer time-horizon; and
4. Concept planning increases the development-readiness of lands by establishing the planned uses and public facilities for an expansion area even before it is brought into the UGB.

This suggests that emphasizing the urban reserve and concept planning process as part of regular work cities complete will facilitate more streamlined UGB amendments. While work group members pushed back against the prospect of *requiring* urban reserve planning for larger cities, members generally supported revisions to the statute and administrative rule to reduce local barriers in pursuing urban reserve planning. Work Group members also advocated for increased technical and capacity support from the state to assist jurisdictions seeking to establish urban reserves.

In particular, a regulatory amendment that would incentivize more local governments to pursue an urban reserve is simplifying the planning time horizon associated with an urban reserve. Currently, urban reserves 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). In practice, this requirement means that a city must complete urban reserve planning as part of or immediately subsequent to a UGB amendment, instead of being able to complete this analysis independently. Clarifying that this timeframe may simply be up to a 50-year supply of land and may be designated independently of an UGB amendment would provide significantly more flexibility in pursuing urban reserve planning.

Additionally, the Legislature could significantly strengthen this option through provision of planning assistance from DLCD staff or through direct funding or consultant support for urban reserve planning. As part of the expertise / technical capacity-building recommendations below, DLCD recommends dedicating existing funding and committing additional funding to support urban reserve and concept planning. Staff find that it is also important to fund other supporting work, such as public facilities and infrastructure planning, to ensure that new expansion areas are much more comprehensively planned and ready for development.

The combination of statutory and rule refinements along with additional funding and support for local governments to pursue urban reserves, concept planning, and public facilities planning will increase the ease and certainty of pursuing a UGB amendment. Efficiencies in the UGB amendment process have the secondary benefit of increasing the readiness of land to develop with housing. These improvements would likely increase the number of cities with urban reserves, thereby reducing administrative and legal constraints associated with future UGB amendments.

Direct the Land Conservation and Development Commission, in consultation with Water Resources Department, Oregon Department of Transportation, the Department of Environmental Quality, the Oregon Health Authority and the Department of Agriculture, to adjust administrative rules related to UGB Land Swaps (OAR 660-024-0070) to increase its flexibility and enable its utilization as part of a Housing Capacity Analysis.



As a consequence of UGB adoption and amendment decisions made in the past, many cities have large areas of land within UGBs that are unlikely to develop in the future, even with appropriate zoning and public facilities planning. Many of these areas have remained undeveloped for decades, and today, several cities have pursued an existing administrative pathway called a “UGB Land Swap” to remove highly constrained lands in exchange for lands that are more development ready, e.g., more easily served with infrastructure. Currently, this process occurs separately from the Housing Capacity Analysis.

It would be possible to promote the use of UGB Land Swaps to exchange land that is unlikely to develop within twenty years through strategic amendments to statute and administrative rule. Specifically, incorporating the existing UGB Land Swap process as part of the Goal 10 analyses that jurisdictions above 10,000 are currently required to complete. Rather than completing one-off UGB Land Swaps, cities would have the ability to regularly evaluate lands within the UGB that have not developed over a significant amount of time as part of a Housing Capacity Analysis.

Additionally, this option could be strengthened by making amendments to statute that further increase flexibility, including enabling jurisdictions to swap lands within the UGB that have not developed in exchange for lands outside of the UGB that are substantially similar under the priority scheme. Such an update would require amendments to ORS 197.320(A) and OAR 660-024-0070. Several work group members noted that agricultural lands can often have value beyond their soil classification, such as its location or economic context. To mitigate the potential of removing valuable resource lands through a UGB swap, such a provision could be tailored more narrowly to either exclude high value resource lands or require some demonstration of equivalency as part of the local government’s UGB amendment findings if the swap includes high value resource lands generally.

Another amendment that would strengthen the UGB amendment process is clarifying that removing land from a UGB as part of a UGB Land Swap would not trigger a Measure 49-related claim. This clarification would require an amendment to Measure 49-implementing statutes, ORS 197.300 through 197.336. Current legal interpretation by DLCD and Department of Justice (DOJ) staff suggest that removing lands from a UGB where the applicable zone and land use regulations do not change does not implicate Measure 49. However, many practitioners perceive a risk of a potential Measure 49 claim associated with removing land from the UGB. Clarifying this in statute will increase legal certainty for jurisdictions that pursue a UGB Land Swap.

Adjust statute and direct the Land Conservation and Development Commission to amend rules to authorize utilization of the Affordable Housing Pilot Project (House Bill 4079 – 2016 Session; OAR Chapter 660, Division 39) as a streamlined UGB amendment process in exchange for delivering statewide housing policy goals, including the development of diverse or publicly-supported housing options.

Urban Growth Boundary amendments can be analytically intensive and contentious processes. As a result, the process incentivizes cities to pursue larger amendments than necessary to avoid multiple and more frequent UGB amendments. Consequently, many of these larger, less frequent amendments have a heightened profile, which often leads to greater risk of appeals and major delays, which, in turn, substantially increases time and cost. Additionally, the complexity of Goal 14 planning has discouraged many smaller cities from seeking UGB amendments altogether. Practitioners have suggested that if smaller, more regular amendments were simpler to accomplish, that could help reduce the dynamics that can lead to longer and more expensive UGB amendment processes.

One policy to incentivize small-scale amendments while leveraging better housing outcomes is to build on the implementation of the affordable housing pilot project implemented via [House Bill](#)



4079. This legislation enables cities to pursue a streamlined amendment should they develop a qualifying proposal. For such a policy to be effective, it would need to include:

1. Some legal mechanism that guarantees delivery of statewide housing policy goals, such as a UGB amendment “condition of approval” requiring the establishment of a deed restriction for the development of regulated affordable or diverse housing options. The policy would need to provide various alternatives to increase the pool of eligible projects. Below are a few examples of potential eligibility parameters for consideration:
 - a. At least 30 percent of the total housing units proposed and developed on an eligible site are housing units affordable to households who meet applicable maximum income limits, not to exceed 80 percent of the area median income; or
 - b. At least 30 percent of the total housing units proposed and developed on an eligible site are manufactured dwelling park spaces, with or without government assistance, by households who meet applicable maximum income limits, not to exceed 100 percent of the area median income;
 - c. At least 40 percent of the total housing units proposed and developed on an eligible site are housing units affordable to households who meet applicable maximum income limits, not to exceed 100 percent of the area median income; or
 - d. At least 50 percent of the total housing units proposed and developed on an eligible site are middle housing units as defined in ORS 197.758.

Examples a) and b) draw from existing HB 4079 affordable housing requirements, whereas examples c) and d) do not currently exist but represent housing outcomes that the Legislature has expressed interest in promoting – workforce and middle housing.

2. The streamlined pathway would need to mitigate potential long-term impacts to resource lands, such as a requirement that a qualifying proposal not include high value farmland or that an amendment may expire after a certain period of time if no development activity occurs.

Through discussion with work group members, there are two potential approaches the Legislature could consider in the establishment of such a program, a “clear and objective” approach or a competitive approach. Either approach would require statutory changes to enable and authorize rulemaking.

Option 1 – A “clear and objective” approach articulating specific numeric requirements required for the streamlined process that is approved by DLCD’s director (new statutory language)

Under a “clear and objective” approach, the Legislature could establish clear parameters for jurisdictions and projects that would be eligible for a streamlined UGB amendment. A jurisdiction could submit a qualifying project through the Post Acknowledgement Plan Amendment (PAPA) process and would be evaluated and acknowledged by DLCD’s director under a set of minimally discretionary standards. In other words, if a proposal meets the requirements of the statute, it would necessarily be approved.

The advantage of such an approach is that it would be a significantly more accessible option for jurisdictions to pursue without undergoing a relatively intense and potentially political evaluation process that a competitive approach would require. This could enable local jurisdictions to partner with local housing developers with certainty that a proposal would be accepted, provided it met the applicable program requirements. A potential disadvantage is that clear eligibility parameters could inhibit program flexibility, making the pathway less viable and adaptable in the face of varying local market conditions. Such a pathway would require careful considerations of incentives and feasibility to ensure it is implementable and achieves intended outcomes.



Option 2 – A competitive approach in which proposals are evaluated and awarded by LCDC (adaptation of HB 4079)

At the third Housing Capacity Work Group meeting, several members suggested that a competitive approach could be an appropriate way to structure a streamlined process. Under such an approach, the Legislature could establish broader goals that LCDC would apply to the evaluation of proposals. A jurisdiction could submit project proposals for consideration by LCDC, which would then evaluate and reward projects based on how well the proposal meets the broader goals articulated by the Legislature.

The advantage of such an approach is that much of the existing statute and administrative rules for the Affordable Housing Pilot Project could be adapted to suit a permanent program. Additionally, it could provide additional assurance that proposals would be reviewed via a relatively transparent and higher profile public process. A disadvantage of this approach is that it would require jurisdictions to undergo a significant and likely political public process to receive approval for a given project, raising uncertainty that a given project proposal would be worth the risk. Additionally, such an option would require significantly more Commission time and resources to regularly evaluate project proposals.

Amend the “Simplified UGB Methodology” (ORS Chapter 197A) and associated administrative rules (OAR Chapter 660, Division 38) to establish a more “clear and objective” pathway for a UGB amendment and reduces the basis and incentive for appeal.

The most substantial factor that increases the time and cost associated with an Urban Growth Boundary amendment is the underlying risk of appeal. In almost every circumstance where a UGB amendment required significant time and expense, it was due to an appeal or several appeals of proposed UGB amendments. Of course, it is worth emphasizing that many of these appeals were well-founded, as demonstrated through the remand of the proposed amendment. However, these scenarios could be avoided altogether through greater clarity and certainty articulated in state policy and regulations.

In aggregate, the recommendations *significantly reduce the basis for appeal* by reducing or eliminating two contentions that typically drive appeals: 1) inaccurate/inappropriate 20-year housing needs projections and 2) amendments onto resource lands in non-compliance with the “priority scheme” (ORS 197A.320, 197.298 for Metro). The implementation of an OHNA virtually eliminates the potential for appeal of a 20-year housing needs projection – OHNA projections would be structured to function similarly to population projects conducted by the Portland State University Population Research Center in that the projections would not be subject to appeal. The OHNA projections also significantly increase the amount of housing that cities must plan for by accounting for factors that would be impracticable to calculate at the local level such as unit underproduction and housing for people experiencing homelessness. Additionally, several recommendations minimize the risk of appeal in relationship to the priority scheme in ORS 197.298, including urban reserve & concept planning, UGB land swaps, and – maybe most importantly – increased Goal 14-related funding, expertise, and technical capacity to assist local jurisdictions in the process.

However, there is still some degree of appeal risk, even with the implementation of the proposed recommendations. [House Bill 2254](#) (2013 Legislative Session) sought to address this by providing a “simplified” methodology for smaller jurisdictions, but the resultant methodology has been largely un-utilized due to various provisions in statute and administrative rule that make the pathway less desirable than a standard UGB amendment. There are many specific details cited



by cities that have pursued the pathway¹, but in short, the pathway did not provide 1) **simplicity** of analysis that reduced time and expense, 2) **flexibility** to account for varying local conditions, and 3) **certainty** that the resultant decision would not be appealed.

While the statute and rule, in its current form, is not utilized by jurisdictions seeking a UGB amendment, there are strategic amendments that could be made to both statute and administrative rule that make the pathway more viable. Examples of these amendments include:

- Changing the 14-year planning period to 20-years, consistent with standard Urban Growth Boundary amendments;
- Simplifying priority and serviceability-related analysis and providing greater certainty against appeal; and
- Simplifying and increasing flexibility for buildable lands inventories, consistent with the BLI refinement recommendations outlined earlier in this document.

4. Building Expertise / Technical Capacity

Direct more funding, capacity, and technical support for Goal 14-related work, including UGB amendments, UGB land swaps, public facilities planning for housing, and urban reserve and concept planning.

DLCD has submitted an Agency Request Budget to establish a biennial budget of \$2.5 million for direct planning assistance to local jurisdictions in order to complete housing planning requirements, including Housing Capacity Analyses and Housing Production Strategies. In the previous biennium alone, a historic investment from the Legislature in housing planning totaling \$4.5 million supported 92 projects in 75 jurisdictions. While much of this work will support jurisdictions in pursuing UGB amendments, DLCD has neither the authorization nor direction from the Legislature to use housing-related funding for planning work related to Goal 14 planning.

By investing funding and directing DLCD to utilize this funding to support Goal 14 planning-related work, including UGB amendments, urban reserves, UGB swaps, and public facilities planning, local jurisdictions will have the support and resources needed to pursue UGB amendments. And more importantly, land added to the UGB will be much more likely to actually develop with housing, especially if they are coordinated with public facilities plans.

A critical operational amendment DLCD will be implementing in the next biennium is a pathway for small, resource-constrained local jurisdictions to access housing-related capacity assistance without needing to submit a grant application. This could be achieved through a lump sum contract or series of contracts with local Councils of Government and similar organizations to perform housing-related work on behalf of smaller jurisdictions.

It is important to emphasize that while the \$2.5 million request represents a significant commitment from the state to support housing planning, expanding that scope to Goal 14 planning will significantly increase the pressure on this funding source. Many plans related to Goal 14, especially public facilities plans, are more time and cost intensive than Housing Capacity Analyses and Housing Production Strategies. Therefore, additional funding will be critical in supporting jurisdictions seeking to pursue Goal 14-related work, including UGB amendments. Additionally, while DLCD will be dedicating a portion of funding to support smaller jurisdictions, any additional funding for housing planning assistance will support even more jurisdictions in

¹ ECONorthwest. City of Newberg. Commentary on the Division 38 Process. Accessed via: https://www.newbergoregon.gov/sites/default/files/fileattachments/planning/page/5842/051319_tac_newberg_2030_packet.pdf (page 9-14)



completing necessary housing and Goal 14-related work, especially simpler, less expensive tasks such as annexation/zone changes, land use entitlement, and permitting.

Direct the Department of Land Conservation and Development to focus new housing staff included in the Agency Request Budget, on Goal 14 and public facilities planning and support for local jurisdictions. The role of this staff will be to provide Goal 14-related technical feedback and support to larger communities and to complete Goal 14-related analysis for smaller communities that are ready for adoption.

Planning for UGB amendments under Goal 14 requires specialized, in-depth technical knowledge in order to successfully develop a Goal 14 analysis that can withstand potential legal scrutiny. For larger cities, this often means staff weigh whether to expand into land that is legally and technically easier to justify over land that is more suitable for development. For smaller cities, this often means that they are wholly unable to expand solely due to the time and cost of hiring a private consultant to complete the analysis. DLCD currently has one full-time staff person with an explicit role in providing support and guidance to jurisdictions seeking UGB amendments, and this position also has other duties in addition to UGB technical assistance.

DLCD's agency request budget includes a request for three new planning positions for the implementation of the Oregon Housing Needs Analysis (OHNA). This recommendation would re-focus this team to explicitly support Goal 14-related work and provide technical guidance and direct support to communities seeking UGB amendments. For larger cities, the team would provide technical support and guidance on relevant statute and administrative rule. For smaller cities, the team could perform Goal 14 analyses identifying one or more potential expansion areas into which cities can expand without needing to complete an analysis in-house.

Additionally, a clear theme that Housing Capacity Work Group members have highlighted is the need for more coordinated public facilities and infrastructure planning to ensure land is development ready. To meet the scope of supporting housing production more fully throughout the state, the addition of one full-time position specializing in public facilities planning would significantly aid both Goal 14 planning and ensuring land is development ready. The addition of such expertise to DLCD could significantly support the core OHNA recommendation for the establishment of a Housing Production Team providing specialized expertise to diagnose and overcome barriers and to align policies and funding in manner that supports housing production in partnership with local jurisdictions.

Appendix B. Follow-up Policy Work - Basis for a Statewide Housing Production Strategy

DRAFT



THIS DOCUMENT IS A WORK IN PROGRESS

Please note: DLCD is providing this information as a means for further conversation and to illustrate some ideas about what more state agencies could do to support housing production. The follow-up recommendations outlined in this document have been derived from conversations with stakeholders and among DLCD staff. As such, the level of detail varies, based on the extent to which stakeholders shared feedback with DLCD staff and policy areas where DLCD has more direct statutory authority. It is further noted that this document has not yet been reviewed with all of the departments mentioned herein. Ultimately, this document could serve as a starting place for development of a statewide Housing Production Strategy.

Follow-up Policy Work – Basis for a Statewide Housing Production Strategy

A key theme that emerged from discussion is a significant need for greater partnership and coordination between varying levels of government and between state agencies to have a more unified statewide approach towards achieving greater housing production, affordability, and fair and equitable outcomes. Currently, there are several agencies that work on housing-related or adjacent policy issues, but there is no administrative structure in place that ensures their coordination on policy issues or to ensure discussions do not occur in siloes. As a consequence of this dynamic, many stakeholders have raised policy issues outside of DLCD's scope or authority but that are nonetheless critical for achieving better housing outcomes.

The core OHNA recommendations include establishing an administrative mechanism charged to work towards equitable housing production and coordinate and partner with state agencies and local governments on policies and investments that support production. Additionally, the core recommendations include tasking this administrative mechanism with developing a Statewide Housing Production Strategy that identifies needed policy follow-up work and timelines to adopt and implement that work. The following recommendations would serve as an extensive basis for this Statewide Housing Production Strategy. While these measures do not cover the full scope of *all* areas of needed follow-up work, it represents a multi-year and multi-agency work program that incorporates the major themes the project team heard through engagement and discussion with stakeholders.

Follow-up Policy Work Recommendations

A. Decrease barriers to production and affordability

A.1 Develop policy recommendations in response to the OHCS report on System Development Charges (SDCs) and infrastructure planning (HB 3040).

In 2021, the Oregon Legislature directed Oregon Housing and Community Services to prepare a report on System Development Charges (SDCs) to be completed by December 15, 2022. OHCS is working with a consultant team to study SDCs and the role these fees play in funding infrastructure across the state and how they may act as an upward cost driver for market-rate and/or affordable housing across the state.

The study will analyze the history of SDCs across the county and in Oregon. It will also consider the various methodologies used for setting fees including an analysis of geographic and



population size variances, timing of payments, and financing mechanisms of SDC charges, availability of funding for capital improvement projects, and how SDC's compare with other cost drivers for housing. The agency has consulted with local governments, special districts, developers, and builders of affordable and market rate housing.

System development charges remain a significant policy priority in the production of housing because they fund capital costs for infrastructure necessary to serve development. However, SDCs add to the total cost to the development of housing. Follow-up policy work to develop refinements to SDCs that better support more affordable and diverse housing options will be a critical follow-up for supporting housing production and affordability.

A.2 Conduct an audit of building code to reduce barriers for housing production, including barriers to housing affordability, diversity, accessibility, and alternative construction methods that reduce cost and delay. The resultant changes must balance the following goals:

1. *Increase affordability and housing choice, including middle housing, through the refinement of overly-restrictive standards;*
2. *Increase accessibility of housing for people with disabilities;*
3. *Increase and incentivize the use of alternative construction techniques that reduce cost and delay, such as modular housing; and*
4. *Maintain standards necessary for the protection of life and property.*

There are a variety of barriers to the state's housing production goals, such as accessibility, affordability, and housing diversity, that are directly affected by building code. Implementing this recommendation would include a thorough audit of the Oregon Structural Specialty Code, Oregon Residential Specialty Code, and Small Home Specialty Code in light of these goals with stakeholders from various interests at the table.

A.3 Audit and develop recommendations on state-authorized local policy and financial incentive tools to increase their flexibility and use.

A variety of communities have reported challenges in pursuing state-authorized tools intended to increase housing production and affordability that have rendered their implementation impracticable. Examples include:

- *Tax Increment Finance (TIF)* – Smaller and more rural communities have reported challenges implementing TIF, especially for the purpose of financing infrastructure improvements that support housing production.
- *Multiple-Unit Property Tax Exemption (MUPTE)* – Smaller and more rural communities have reported challenges implementing the MUPTE, in part due to a requirement for a fixed-transit route within one-quarter (1/4) mile of the project.
- *Inclusionary Zoning (IZ)* – Communities have reported challenges associated with the inclusionary zoning statute that inhibits its use in a context other than multi-family development. Because the statute is narrowly tailored to apply to multifamily structures of 20 units or more, jurisdictions have limited ability to develop inclusionary zoning programs, including voluntary programs, to other housing development contexts, including middle housing.

Making specific adjustments to existing statutory tools that increase flexibility of use in varying contexts would help refine and make them more useful and implementable for local communities. Refinements would require careful deliberation and involvement of a variety of interests, including the development community.



A.4 Audit and develop recommendations for training programs and licensing requirements for housing- and construction-related contractors to increase the capacity to produce housing.

Through extensive outreach to market-rate and subsidized affordable developers, it has become clear that a major limitation to the development and cost of housing is the supply and availability of labor, especially skilled trades. In many communities, especially smaller and more rural communities, the lack of skilled laborers and contractors has resulted in significant capacity constraints to construct housing, and many existing licensing requirements make alleviating this constraint challenging.

A.5 Develop policy recommendations in response to a Department of State Lands report on wetlands permitting streamlining and the partial 404 assumption (HB 2436 – 2019 Legislative Session)¹

Multiple communities, especially in the mid- and upper-Willamette Valley and on the Coast, noted significant development challenges that result from the wetlands permitting process. In response, the recommendations include direction to LCDC to adjust rulemaking to ensure Buildable Lands Inventories are able to discount the capacity of lands affected by wetlands regulations. However, to better facilitate the development of housing, especially on lower value wetlands within the UGB, DSL was directed by the Legislature in 2019 to develop a report with recommendations related to wetlands permitting. The agency has completed this report, but there is a need for follow-up policy work to develop recommendations that better facilitate housing production in response.

A.6 Study and develop recommendations on policies related to taxation that affect housing production and affordability, including property and income taxation, with an emphasis on the following outcomes:

1. *Increase the supply and affordability of housing;*
2. *Increase opportunities for homeownership, especially in historically underserved communities and communities of color;*
3. *Incentivize the development of vacant and partially vacant lands; and*
4. *Disincentivize speculative ownership of land and housing.*

Underlying discussion around housing production, development readiness, and achieving fair and equitable housing outcomes included broad acknowledgement that the current systems of taxation distort incentives towards housing as an investment and inhibit equitable housing production. While Measure 5 creates significant restrictions on the tools available to address taxation-related issues, there are still a variety of potential tools that could address distorted incentives and significantly incentivize production. This will require specialized taxation expertise and careful navigation of trade-offs between various tools.

A.7 Conduct a study of short-term rentals (STRs) in recreation cities and counties and develop policy recommendations that provide more local tools to regulate and leverage STRs.

A major dynamic affecting recreation communities, such as the Oregon Coast or Central and Eastern Oregon, is the effect of short-term rentals on the price and availability of housing stock, especially workforce housing. While the OHNA incorporates methodological changes that enables jurisdictions to account for the impact of second and vacation homes on the overall supply of housing, it does not address the underlying policy dynamic.

¹ HB 2436 (2019). Partial 404 Assumption. Legislative Update. Oregon Department of State Lands. Accessed via:
https://www.oregon.gov/dsl/WW/Documents/HB2436_Partial404AssumptionLegUpdate_FINAL.pdf



The appropriate policy or regulatory approach for short-term rentals is highly context- and market-specific. In many cases, demand for STRs has significant potential to be leveraged to support housing for recreation communities.² However, the current regulatory landscape does not provide many tools to support local jurisdictions in managing the impact of STRs. Conducting a study of STRs in recreation communities to better understand specific market dynamics and relationship with needed housing and developing local policy options, such as taxation authority or regulatory tools, will be critical to provide these communities support in ensuring housing affordability and availability for community members.

B. Increase homeownership and housing stability

B.1 Evaluate policy options to increase homeownership opportunities in market-rate and subsidized affordable contexts, including Limited Equity Housing Cooperatives (LEHCs).

Limited Equity Housing Cooperatives are a structure of “shared lot” residential ownership, in which multiple units share a single lot and members own shares in a cooperative which owns and manages the entire property. LEHCs are an emerging alternative to fee-simple or condominium development and have the ability to deliver many of the advantages and stability of homeownership for households with lower-incomes and with limited subsidy³. Exploring opportunities to incentivize and increase use of these models, in a manner that closely considers the trade-offs of LEHCs⁴, will help deliver more long-term affordable homeownership opportunities which do not currently exist.

B.2 Evaluate policy changes to support the production of condominiums, especially for smaller-scale projects and middle housing.

A clear challenge in the development of “starter homes” are restrictions associated with condominium law. While condominiums are an important tool to deliver homeownership opportunities in circumstances where multiple units share a common lot, the current statute disincentivizes the development of smaller-scale condominium and clustered living situations. Many of the costs and requirements associated with current condominium law require economies of scale to compensate, meaning that larger and more expensive projects are much more economically feasible than small-scale and less expensive projects. A Condominium Working Group was established by the Legislature in 2019 to develop refinements to existing statute⁵, but the results from this working group are unclear at the time of this report. Policy recommendations intended to encourage smaller-scale condominiums, such as for middle housing projects recently legalized by HB 2001 (2019), will significantly enhance ownership options in circumstances where lot divisions for fee-simple ownership are impracticable such as when individual units are stacked vertically.

² Bekkerman et. al. (2021). Research: Restricting Airbnb Rentals Reduces Development. Accessed via: <https://hbr.org/2021/11/research-restricting-airbnb-rentals-reduces-development>

³ Lamar, Picha, Thrall-Nash (2022). Affordable Middle Housing Co-ops: Opportunities and Barriers to Expanding Oregon Homeownership. ECONorthwest. Accessed via: https://static1.squarespace.com/static/597fb96acd39c34098e8d423/t/62194fda9ea2a1286ccec859/1645826018426/Co-Op+Housing+Whitepaper_February-2022.pdf

⁴ Okun. (2022). Coloring the Co-op: Limited Equity Cooperatives, Local Governance, and Black Homeownership in Washington, DC. Accessed via: <https://blogs.lse.ac.uk/progressingplanning/2022/01/31/coloring-the-co-op-limited-equity-cooperatives-local-governance-and-black-homeownership-in-washington-dc/>

⁵ Condominium/HOA Working Group (2019). Accessed via: <https://olis.oregonlegislature.gov/liz/2019R1/Downloads/CommitteeMeetingDocument/191538>



B.3 Develop permit-ready plans for smaller-scale, fee-simple “starter homes” and partner with local jurisdictions to adopt and incentivize.

Oregon has a much greater proportion of local, small-business developers than other states, which presents both challenges and opportunities in scaling up statewide housing production and promoting affordability. One major challenge is that a lack of specialized development and contractor expertise makes delivering larger-scale developments, such as mid-rise apartments, more challenging. Combined with existing local and state regulations, many smaller scale developers have a substantial incentive to maximize return on investment by building larger and more expensive single-family detached dwellings that are inaccessible to many Oregonians.

State agencies are in a unique position to design and publish permit-ready housing projects that are feasible for small-scale developers and partner with local governments to ensure that these projects can be reviewed and approved in an expedient manner. Additionally, this creates an opportunity to incorporate other housing-related goals into the design of these housing projects, such as the inclusion of accessibility and sustainable features.

B.4 Audit and develop recommendations on Loan Guarantee Programs to preserve existing naturally-occurring affordable housing and to increase accessibility and maneuverability as people age in their existing housing situation.

The preservation of existing affordable housing is a critical strategy for long-term affordability, especially in smaller and more rural communities where there is less development pressure to redevelop existing housing stock. Additionally, as Oregonians age, it will be increasingly important to enhance the accessibility of existing housing stock to ensure that households are better able to age in place.

Many of the improvements that are necessary for housing preservation and increasing accessibility are taken on by individual property owners, often utilizing some type of loan to finance the improvement. Because of the risk associated with these loans, it is often difficult for property owners to secure financing that supports the improvement, even if they would otherwise be able to afford the improvement. Establishment of a type of loan guarantee or similar program that reduces risk for lenders in financing certain types of housing improvements could go a significant way towards state preservation and accessibility goals with relatively minimal public investment.

C. Increase accessibility and housing choice for people with disabilities

Throughout the recommendations on the implementation of an OHNA and follow-up policy work, it is clear that there is an urgent need for state and local government agencies to better plan for accessibility and housing needs for people with disabilities.

Adjustments to statutory provisions to incorporate accessibility and housing for people with disabilities is a core part of the recommendations on the implementation of an OHNA. Together, they ensure that DLCD and local governments will be systematically planning policies intended to increase accessibility and housing choice for people with disabilities. These recommendations include the following:

1. Amending the “Needed Housing” statute (ORS 197.303) to include disability status as one of the housing demographic characteristics cities must plan for.
2. Amending the “Housing Production Strategy” statute (ORS 197.290) to reinforce the responsibility of local governments to adopt strategies that affirmatively further fair housing and work towards equitable housing production, and direct LCDC to complete conforming rulemaking to incorporate these changes. See the “Affirmatively Furthering Fair Housing” section below for greater detail.



Note: "Equitable housing production is defined as diverse, quality, physically accessible, affordable housing choices with access to economic opportunities, services, and amenities."

3. Regularly track and evaluate housing outcomes for people with disabilities as part of the Housing Production Dashboard that local jurisdictions respond to via the Housing Production Strategy.
4. Adjust existing housing reporting requirements (HB 4006, 2018 Session) to require either the Building Codes Division or reporting cities to track accessibility-related features, such as zero-step entry, wide hallways, and bathroom/kitchen on the first floor.

In addition to these changes to the statutory framework implementing Goal 10, the project team heard the need for significant follow-up work on housing for people with disabilities and accessibility. While these items are not within the scope and authority of DLCD, they nonetheless remain critical for improving housing outcomes for people with disabilities and should be incorporated into the Statewide Housing Production Strategy that the core OHNA recommendations include.

C.1 Conduct an audit and adopt changes to building code in light of several housing-related goals (discussed above), including increasing accessibility of new housing construction and establishing a certification program for the inclusion of accessibility features in new construction.

Currently, the accessibility of housing is significantly impacted by building code, much of which is centralized under the Oregon Structural Specialty Code. Various stakeholders who advocate or work adjacent to housing accessibility have noted that statewide building code incorporates very little accessibility features or universal design principles.

Directing a thorough audit and update of building code to incorporate these principles and establish a certification program can provide builders, state agencies, and local partners a foundation to start incorporating many of these features into new construction or to retrofit existing housing. Additionally, there are existing bodies of work this effort could draw from without needing to develop standards from scratch, such as the [Lifelong Housing Certification Checklist](#) developed by the Rogue Valley Council of Governments.

C.2 Conduct an audit and develop recommendations to improve housing outcomes for people with disabilities in subsidized affordable housing programs, including the following:

1. *Improving accessibility in subsidized affordable housing projects receiving funding from Oregon Housing and Community Services;*
2. *Ensuring that people with disabilities and also living in subsidized affordable housing have priority for units with accessibility features;*
3. *Incentivizing the preservation, retrofit, or adaptation of existing housing stock with accessible features; and*
4. *Improving the connection between housing supports and services.*

As highlighted in the Legislative Report on the Oregon Housing Needs Analysis developed by OHCS, the analysis found that people with disabilities disproportionately faced increased cost burden and housing insecurity. Within the context of subsidized affordable housing, stakeholders highlighted two major challenges in providing more accessible, affordable housing options: 1) Incorporating accessibility features in subsidized affordable housing and 2) Ensuring that people with disabilities are able to access that housing as well as the services they need. This recommendation is intended to bring a lens to existing programs and recommend adjustments to better address these challenges and enhance accessibility in subsidized affordable housing programs generally.



C.3 Direct the Oregon Health Authority to add a module to the [Adult Behavioral Risk Survey \(BRFSS\)](#) assessing housing-related metrics for people with disabilities, including affordability, availability, quality, and accessibility features. Specify that they must provide notice to the [Oregon Office on Disability and Health](#), DLCD, and OHCS once reports are published.

The Oregon Housing Needs Analysis relies on existing data for the purpose of estimating housing needs. The data landscape on the intersection between housing and disability status is very poor. However, the Oregon Health Authority regularly conducts surveys and collects data through the Adult Behavioral Risk Survey (BRFSS), in part to assess specific health outcomes, including for people with disabilities. Considering the intrinsic connection between housing quality/stability and public health, adding a module to better assess housing outcomes for people with disabilities could provide a critical data point for the implementation of the OHNA and the Housing Production Dashboard that will inform resultant state and local policy.

D. Support Tribal Nations and their members

Tribal Nations face a myriad of regulatory and resource challenges in responding to the housing needs of their members, many of which are connected to a deeper history in which actions by state and federal governments disenfranchised communities, often in violation of previous agreements and treaties. While Tribal Nations are sovereign entities that are not subject to the requirements of Goal 10, it is important that many of the same supports to increase equitable housing production are accessible to these communities. The following policy recommendations were identified as needed areas of follow-up work to support Tribal Nations in working towards equitable housing production.

D.1 Provide housing-related analysis and data through the Oregon Housing Needs Analysis to Tribal Nations.

Currently, the Portland State University Population Research Center (PRC) is piloting a methodology to develop a population projection for tribal areas. This pilot will provide critical information that will enable Tribal Nations to plan for housing and seek policy and funding support from state and federal governments. While these communities would not be subject to the same statutory housing obligations that state and local governments would be via the OHNA, the analysis could provide analytic information for these communities that supports their housing-related work.

D.2 Audit existing funding sources that support housing for members of Tribal Nations and develop recommendations to consolidate and increase flexibility of funding sources to increase their accessibility and use.

A major barrier in the development of affordable housing to house members of Tribal Nations is the siloed and disparate pots of state and federal funding available to support production. Because many of these funding sources implement different programmatic requirements and criteria to receive funding, it raises additional barriers in accessing funding and results in scenarios in which certain strings make funding sources impracticable to use. This recommendation is intended to audit the full scope of funding sources and recommend consolidation and flexibility-increasing opportunities to increase their accessibility and use by Tribal Housing Authorities.

D.3 Direct the Land Conservation and Development Commission to adopt administrative rules that enable the development of housing on tribal lands that are not held in tribal trust.

This issue was highlighted via discussion with staff from the Confederated Tribes of Grand Ronde. The Tribe [throughout its history](#) faced significant disenfranchisement by state and federal actions that significantly reduced the size of their original reservation, resulting in significant



portions of land ending up in non-Tribal ownership. While the Tribe has been building back this ownership through acquisition of land held in trust, much of the original land base is subject to County zoning and statewide land use regulations. While placing land in trust nullifies state and local regulations, it is an onerous process that inhibits the ability for the Tribe to develop subsidized affordable and workforce housing on tribal-owned lands. This rulemaking would address that barrier by providing some administrative path to enable exceptions for tribal-owned lands that are not held in tribal trust.

D.4 Coordinate and partner with the Legislative Commission on Indian Services and with Tribal Nations on housing production and affordability.

A core recommendation of the Oregon Housing Needs Analysis is to establish an administrative mechanism that coordinates and partners with various state agencies and local governments to work towards equitable housing production. While the recommendations do not set forth the specific structure, it will be important that the resultant administrative entity coordinate and partner with the Legislative Commission on Indian Services and with Tribal Nations directly to identify policy and funding interventions that support housing production and affordability in their communities.

E. Affirmatively Further Fair Housing

A core set of recommendations of the implementation of an OHNA are focused on achieving fair and equitable housing outcomes. Meaningful progress towards these outcomes requires urgent need for state and local government entities to better connect fair housing, and more specifically affirmatively furthering fair housing (AFFH) best practices, and equitable housing production strategies in their housing production efforts.

Per the U.S. Department of Housing and Urban Development (HUD), affirmatively furthering fair housing is defined as “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 inclusive 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.” In other words, this means ensuring everyone, regardless of state or federally protected class (e.g. race, color, national origin, religion, sex, disability, familial status, domestic violence, marital status, sexual orientation, and sources of income) has equal access to housing choice and opportunity.

Amending statute to incorporate affirmatively further fair housing is a critical component in these set of core recommendations. This will reinforce the existing obligation for state and local governments to plan in manner that centers housing choice and opportunity for all, regardless of state or federally protected class, in their housing production efforts. Statutory recommendations include the following:

1. Amending the “Housing Production Strategy” statute (ORS 197.290) to reinforce the obligation of local governments to adopt strategies that affirmatively further fair housing and work towards equitable housing production, and direct LCDC to complete conforming rulemaking to incorporate these changes.
 - (a) “Equitable housing production” is defined as diverse, quality, physically accessible, affordable housing choices with access to economic opportunities, services, and amenities.
 - (b) “Affirmatively Furthering Fair Housing” is defined as 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.

2. Regularly track and evaluate housing outcomes for protected classes as part of the Housing Production Dashboard that local jurisdictions respond to via the Housing Production Strategy, per the best available data.

Beyond these changes to the statutory framework implementing Goal 10, the project team heard the need for follow up work in other areas of fair housing to ensure a statewide approach to this important issue. Much of this follow-up policy work is outside of the direct scope and authority of the department, but they are critical in advancing housing choice for all Oregonians and should be included in a statewide housing production strategy that the core OHNA recommendations include.

E.1 Direct a multi-agency effort to develop statewide policy recommendations that establish Affirmatively Furthering Fair Housing (AFFH) policy. The intent is to ensure all state agencies with touchpoints connected indirectly or directly to housing have a responsibility to ensure their actions, programming and practices achieve fair and equitable outcomes.

Many state agencies, including Oregon Bureau of Labor and Industries (BOLI), Business Oregon, and Oregon Housing and Community Services (OHCS), currently receive federal funding to support housing services and/or develop affordable housing specifically for state and federally protected classes. As a condition for receiving these federal funds, the agencies must affirmatively further fair housing. Other agencies like DLCD and the Oregon Health Authority (OHA) have indirect or direct connections to housing services and development.

To ensure that all state agencies are operating collectively to achieve fair and equitable outcomes for all Oregonians, regardless of state/federal protected classes, it would be beneficial to develop a statewide policy that establishes affirmatively furthering fair housing policy. Crafting and establishing this policy would be a collective effort by all these state agencies with support of other organizations with fair housing expertise, such as the Fair Housing Council of Oregon (FHCO), Coalition of Communities of Color (COC) and the Oregon Community Alliance of Tenants (CAT).

E.2 Direct DLCD to partner with Business Oregon, OHCS, and the Oregon Health Authority in the next update of the [State of Oregon's Analysis of Impediments to Fair Housing Choice](#).

Business Oregon, OHCS, and Oregon Health Authority receive federal funds for housing and/or community development projects from HUD. As a condition for receiving these federal funds, HUD requires these state agencies to affirmatively further fair housing (AFFH) based upon HUD's obligation to administer the Department's housing and urban development programs in a manner to affirmatively further fair housing found under Section 808 of the Fair Housing Act.⁶ (Note: This AFFH obligation extends to all recipients of HUD funds, including local governments.)

HUD requires recipients of their funds to implement the AFFH mandate by engaging in fair housing planning through the development of an Analysis of Impediment to Fair Housing Choice

⁶ The Fair Housing Act, Section 808, AFFH <https://www.justice.gov/crt/fair-housing-act-2>



(AI). The fundamental goal of HUD's fair housing policy is to make housing choice a reality through Fair Housing Planning (FHP). HUD suggests that jurisdictions conduct/update their AI at least once every 3 to 5 years or consistent with their Consolidated Plan cycle. The intent behind the AI is to identify impediments to fair housing choice in the jurisdiction, take meaningful actions, in addition to combating discrimination that overcome impediments fair housing choice (e.g., overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on federal protected class, and maintain records reflecting the analysis and actions taken.

While DLCD does not receive federal funds from HUD, it would be beneficial for the department to work jointly with the other state agencies in future AI updates. The AI includes the review of impediments to fair housing choice in the public and private sector and involves:

- A comprehensive review of State laws, regulations and administrative policies, procedures
- An assessment of how those laws, etc. affect the location, availability, and accessibility of housing
- An assessment of conditions, both public and private, affecting fair housing choice for all protected classes
- An assessment of the availability of affordable, accessible housing in a range of unit sizes

As a result, a wealth of data, quantitative and qualitative, is collected and used to inform Business Oregon, OHCS, and OHA's housing programs in a manner that centers AFFH principles. If DLCD becomes a collaborator in the next update of the State AI, the department can better align the effort with the State's HPS program which seeks to achieve fair and equitable outcomes. It should be noted that the current AI for the Balance of the State is not organized to be used by individual jurisdictions. Instead, the data was made available at a variety of geographic levels (e.g., balance of state, county, region, etc.) however, for the future update, DLCD's recommendation would be for the data to be allowed to be more granular so that individual jurisdictions that don't receive HUD funding (and thereby not subject to AI requirements) can also use the data from the State AI to inform their Housing Production Strategies.

E.3 Direct DLCD to support OHCS, Business Oregon, and OHA on certain actions identified in the current State AI with direct connection/implication to DLCD's housing program (goal 10).

There are a few actions identified in the current State AI where DLCD would be an appropriate state agency partner to support addressing the identified impediments to fair housing choice including:

- Action 2 under the Actions to Reduce Disparities in Rental Housing Choice category. "New approaches to preserving and developing affordable housing: Identify and implement effective strategies (e.g., incentives, requirements) to increase the number of accessible and adaptable affordable rental housing units statewide. Impediment 1-4."
- Action 3 under the Actions to Reduce Disparities in Rental Housing Choice category. "New approaches to preserving and developing affordable housing: review the effectiveness of recent legislation (e.g., HB 2001) in expanding the supply of housing in the balance of state. If units are not being built, identify remaining barriers, which could include other land use or environmental rules, and develop policies or incentives to mitigate them. Impediment 1-1."



- Action 1 under the Current Strategies to Continue category. “Continue to incentivize siting affordable housing in communities with strong economic assets like proficient schools, employment opportunities, and affordable and accessible transportation. Impediment 3-1.”

The current State AI includes a “Legislative, policy development, regulatory changes” category which warrants underscoring here also:

- “Action 1: Support regulatory changes to strengthen the state’s source of income protection including increased resources dedicated to enforcement, higher fines, and piloting locally delivered housing provider protection/insurance funds. Impediments 1-1, 1-2, 1-3, 1-4, 1-6.”
- “Action 2: Support adding immigrants and refugees as a protected class at the state level. Impediment 1-3.”
- “Action 3: Reform the state housing provider protection/insurance fund to be more responsive to housing provider needs and expand the fund or develop other incentives to mitigate or offset the risk housing providers take when renting to high barrier tenants who otherwise would not meet standard screening criteria (e.g., prior eviction, criminal history, poor credit). Impediment 1-3.”
- “Action 4: Convene housing providers and fair housing stakeholders to develop a best practice process housing providers can use to fairly screen applicants who are undocumented and a process for individualized assessments for those with criminal histories. Learn from Portland’s implementation of the FAIR ordinance. Impediment 1-3.”

E.4 Adopt an amendment to state law allowing the Oregon of Bureau of Labor and Industries (BOLI) to become a substantially equivalent state agency.

BOLI is the state agency charged with primary authority for enforcing state fair housing laws and protections. Community members who experience housing discrimination based on any of the state protected classes can file a complaint with BOLI who must investigate violations of state fair housing laws. Community members who experience housing discrimination based on any of the federally protected classes can file a complaint with the U.S. Department of Housing and Urban Development (HUD) who investigates federal violations of federal fair housing laws.

Prior to 2016, Oregon’s fair housing law was designated as “substantially equivalent” by HUD (this designation was granted in 2008). However, due to legislative changes to Oregon’s state law, HUD deemed BOLI no longer substantially equivalent and terminated its contract/partnership with BOLI as of April 3, 2016. The impact of this procedural change has lengthened the time in which complaints are investigated by HUD significantly. This delay is primarily due to the loss of a substantially equivalent state partner to review complaints. It is said that the backlog of complaints yet to be investigated and adjudicated is multiple years behind.

Amending state law to allow BOLI to investigate and adjudicate federal fair housing law violations occurring in Oregon better support community members to unfair treatment and discrimination and of course support a statewide effort to achieving fair housing outcomes for all.

E.5 Create a new “Disparate Impact” provision in Oregon fair housing law that would make it a violation of state fair housing law (adjudicated by BOLI or LCDC) for a government entity to have laws, regulations, or



practices that have a substantial and negative disparate impact on Oregon and federal protected classes. The remedy to said practice would include changes to the law, regulation, or practice.

Disparate impact refers to a policy or practice which is “neutral” on its face but has a disproportionately adverse negative outcome on a protected class group regardless of whether the original intent of the policy or practice was discriminatory. Disparate impact, which has its origins in employment law, has been a vital pathway for enforcing the Fair Housing Act federally. The positive ramifications include anything from potentially providing additional protections for survivors of domestic violence to possibly ensuring zoning laws in local communities are not harmful. Implementing a State of Oregon disparate impact provision is a critical tool for fighting housing discrimination and ensuring equitable housing opportunities and choices for all Oregonians.

Such a provision would need to include similar reasonable burden of proof standards as federal statute, requiring establishing several factors in the evaluation of whether a particular law, regulation, or practice creates a disparate impact:

- Identify the specific policy or practice at issue
- Establish adversity or harm
- Establish disparity
- Establish causation

E.6 Adopt provisions to state law that would make existing Covenants, Conditions, and Restrictions (CC&Rs) for Homeowner Associations (HOA) on real property unenforceable if they restrict size of homes, prohibit ADUs, middle housing types, or conflict with land use regulations implementing state housing laws.

Covenants, Conditions and Restrictions (also called restrictive covenants) for HOAs are a set of rules that describe what one can do or not do with their home. The Oregon legislature has already passed legislation to negate any provision in existing HOAs that are contrary to public policy. However, the recent legislative changes related to ADUs, and middle housing were not in place at that time. As such, if an HOA prescribes minimum unit size, prohibits homeowners from adding units (like ADUs) or subdividing the existing home and converting it into a triplex (for example), then legally it would be allowed. For this reason, it is important to craft provisions to state law to ensure HOAs are not used as tools to limit these housing options for Oregonians.