

OAR 660-008 Amendments Incorporating Housing Production Strategy Requirements

Updated: August 20, 2020

Note: Definitions provided here will be incorporated into the Definitions section already provided in OAR 660-008

1. "Housing Production Strategy" means a specific tool, action, policy, or measure a city will implement to meet the housing needs described in an adopted Housing Capacity Analysis. A Housing Production Strategy is one component of a Housing Production Strategy Report.
2. "Producers of Needed Housing" means developers, builders, service providers, or other persons or entities providing materials and funding needed to build housing. Producers of Needed Housing may include non-profit organizations or public entities.
3. "Consumers of Needed Housing" means any person who inhabits or is anticipated to inhabit Needed Housing, as described in the definition of "Needed Housing" in ORS 197.303.
4. "Housing Production Strategy Report" means the report cities must adopt within one year of their deadline to complete an updated Housing Capacity Analysis, pursuant to OAR 660-008-0050.
5. "Housing Capacity Analysis" means a document, incorporated into a city's comprehensive plan by ordinance, that complies with the provisions of ORS 197.296. A Housing Capacity Analysis is a housing needs analysis or an assessment of housing need and capacity that includes the inventory, determination, and analysis required under ORS 197.296(3).

660-008-0045 Housing Capacity Analysis Deadline

Cities described in ORS 197.296(2)(a)(B) and (10)(c)(B) shall demonstrate sufficient buildable lands as scheduled by the Land Conservation and Development Commission.

1. The Department of Land Conservation and Development shall publish the calendar of Housing Capacity Analyses deadlines for cities identified under ORS 197.296 2(a)(B) or 10(c)(B) in Exhibit A.
2. The deadline for adoption of a Housing Capacity Analysis in a given year is December 31st.
3. A city will be considered to have met its obligation to adopt a Housing Capacity Analysis upon adoption of the Housing Capacity Analysis by ordinance. A subsequent appeal of the Housing Capacity Analysis will not be considered a failure to comply with the deadline provided in ORS 197.296 2(a) or 10(b).
4. Upon adoption of a Housing Capacity Analysis, the deadline for a subsequent Housing Capacity Analysis is as follows:
 - a. Eight years for cities that are not within a metropolitan service district; or
 - b. Six years for cities that are within a metropolitan service district.
5. If a population estimate developed under ORS 195.033 and OAR 660-032-0020 and OAR 660-032-0030 results in a city qualifying under ORS 197.296(10)(c), the city must comply with this section within two years of its qualification or the interval provided in Section 4, whichever is the longer period.

660-008-0050 Housing Production Strategy Report Structure

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

1. Contextualized Housing Need – A contextualization and incorporation of information from the most recent Housing Capacity Analysis, which describes current and future housing needs in the context of population and market trends.
 - a. At a minimum, this analysis must include:
 - A. Socio-economic and demographic trends of households living in existing Needed Housing. The analysis must include a disaggregation of households living in existing Needed Housing by race and ethnicity;
 - B. Measures already adopted by the city to promote the development of Needed Housing;
 - C. Market conditions affecting the provision of needed Housing;
 - D. Existing and expected barriers to the development of Needed Housing;
 - E. Other housing needs to respond to Department review under ORS 197.293(2) including an estimate of the number of people or households experiencing homelessness. Estimates must include, as available, the following data sources:
 - i. An estimate of regional housing need for people experiencing homelessness provided by the state or a regional or county entity;
 - ii. The applicable Housing and Urban Development Point-in-Time (PIT) count conducted by the Continuum of Care that the city is located within;
 - iii. The applicable Housing and Urban Development Annual Homelessness Assessment Report (AHAR); and
 - iv. The applicable McKinney-Vento Homeless Student Data for all school districts that overlap with the city.
 - F. Percentage of Rent Burdened Households, as determined in the report described in OAR 813-112-0020(2);
 - G. Housing tenure, including rental and owner households; and
 - H. Housing needs for people with disabilities, including hearing, vision, cognitive, ambulatory, self-care difficulty, and independent living as provided in the applicable American Community Survey and other data sets, as available.
 - b. A city may use the following types and sources of data to further contextualize housing need for the purposes of this section:
 - A. The percentage of housing stock that is market rate compared to the percentage of housing stock that is subsidized to make it affordable;
 - B. Units that the city has permitted but which have not yet been produced;
 - C. Population groups that are not typically accounted for in a Housing Capacity Analysis, including but not limited to college and university students or second homeowners;
 - D. Redevelopment rates that impact the preservation of existing affordable market-rate units; and
 - E. Other types and sources of data to refine housing need for those experiencing homelessness, including:
 - i. Data collected by local coordinated care organizations (CCOs);
 - ii. Data collected by community action agencies;
 - iii. The capacity of existing emergency shelters;
 - iv. Rental and homeowner vacancy rates;
 - v. Change in gross or net property values or rent over time;
 - vi. Qualitative data that illustrate specific needs of people experiencing homelessness; and
 - vii. Other local houseless population datasets
2. Engagement – A Housing Production Strategy Report must include a narrative summary of the process by which Consumers of Needed Housing and Producers of Needed Housing were engaged, especially engagement of State and Federal protected classes. A city may conduct engagement for a Housing Production Strategy concurrent with other housing planning efforts within the city, including but not limited to a Housing Capacity Analysis, Consolidated Plans for Community Development Block Grant Entitlement Communities, and public

engagement for Severely Rent Burdened Communities as described in OAR 813-112-0010. The narrative summary must include the following elements:

- a. A list and description of stakeholders who will be impacted by potential Housing Production Strategies, stating who was engaged and why, including Consumers of Needed Housing and Producers of Needed Housing;
 - b. A summary of feedback received from each stakeholder group;
 - c. A description of how the information from stakeholders influenced implementation of Housing Production Strategies adopted by the City as provided in OAR 660-008-0050(3); and
 - d. An evaluation of how to improve engagement practices for future housing engagement efforts conducted by the city.
3. Strategies to Meet Future Housing Need – A Housing Production Strategy Report must identify a list of specific actions, measures, and policies needed to address housing needs identified in the most recent Housing Capacity Analysis. The strategies proposed by a city must collectively address the next 20-year housing need identified within the most recent Housing Capacity Analysis and contextualized within the Report as provided in OAR 660-008-0050(1). A Housing Production Strategy Report may identify strategies including but not limited to strategies listed in the Housing Production Strategy Guidance for Cities published by the Department under Exhibit B. For each identified Strategy, the Housing Production Strategy Report must include:
- a. A description of the strategy chosen;
 - b. A timeline for adoption;
 - c. A timeline for implementation; and
 - d. An estimated magnitude of impact, including:
 - A. Housing need addressed by the identified strategy by tenure and income;
 - B. An estimate of the number of housing units that are anticipated to be created through implementation of the identified strategy, if possible;
 - C. An analysis of the income and demographic populations that are anticipated to receive benefit or burden from the strategy, including:
 - i. Low-income communities;
 - ii. Communities of color;
 - iii. People with disabilities; and
 - iv. Other state and federal protected classes; and
 - D. A time frame over which the strategy is expected to impact Needed Housing.
4. Achieving Fair and Equitable Housing Outcomes – A Housing Production Strategy Report must include a narrative summarizing how the selected Housing Production Strategies, in combination with other city actions, will achieve equitable outcomes with regard to the following factors:
- a. Location of Housing - How the city is selecting Housing Production Strategies that help meet statewide greenhouse gas emission targets by creating compact, mixed-use, neighborhoods for all residents, including those part of state and federal protected classes.
 - b. Fair Housing - How the city is affirmatively furthering fair housing for all state and federal protected classes. Affirmatively furthering fair housing means addressing disproportionate housing needs, patterns of integration and segregation, racially or ethnically concentrated areas of poverty, and disparities in access to housing opportunity;
 - c. Housing Choice – How the city is facilitating access to housing choice for communities of color, low-income communities, people with disabilities, and other state and federal protected classes. Housing choice includes access to existing or new housing that is located in neighborhoods with high-quality community amenities, schooling, employment and business opportunities, and a healthy and safe environment.
 - d. Housing options for residents experiencing homelessness – How the city is enabling the provision of housing options for residents experiencing homelessness and how the city is partnering with other

- organizations to promote services that are needed to create permanent supportive housing (PSH) and other housing options for residents experiencing homelessness;
- e. Affordable Homeownership and Affordable Rental Housing – How the city is creating opportunities, through housing production, to connect residents with both rental housing that is affordable and homeownership that builds wealth, especially for communities that have been disproportionately impacted by past housing policies; and
 - f. Gentrification, Displacement, and Housing stability – How the city is increasing housing stability for residents and mitigating the impacts of gentrification, as well as the economic and physical displacement of existing residents resulting from investment or redevelopment.
5. A Housing Production Strategy Report must include the following additional elements:
- a. A description of any opportunities, constraints, or negative externalities associated with adoption of the elements of proposed Housing Production Strategies;
 - b. A description of actions necessary that the city and other stakeholders must take to implement the proposed Housing Production Strategies;
 - c. A discussion of how the proposed actions, taken collectively, will increase housing options, particularly for populations with disproportionate housing need;
 - g. If the Housing Production Strategy Report is the first produced under this division, a description of how the city will measure strategy implementation and progress;
 - h. If the Housing Production Strategy Report is not the first produced under this section, a summary of strategies that the city has previously adopted and implemented, and a reflection on the efficacy of each implemented strategy;
 - i. A copy of the city's most recently completed survey to meet the requirements of Section 1(2), chapter 47, Oregon Laws 2018 and a copy of the ORS 197.178 report which shows all permits applied for and accepted within the year;
 - j. A summary of needs identified in the Housing Capacity Analysis that are not addressed by strategies in the Report, including a description of other tools, strategies, or policies that were considered or implemented by the city to address that need.

660-008-0055 Review of Housing Production Strategy Reports

1. No later than 20 days after a city's adoption or amendment of a Housing Production Strategy Report, a city must submit the adopted Report or amended Report to the Department of Land Conservation and Development.
2. On the same day the city submits notice of the Housing Production Strategy Report or amended Report to the Department of Land Conservation and Development, the city must provide a notice to persons that participated in the proceedings that led to the adoption of the Housing Production Strategy Report and requested notice in writing.
3. Within 10 days of receipt of the submission under subsection (1), the Department of Land Conservation and Development must provide notice to persons described under ORS 197.615 (3)
4. Notices given under subsections (2) and (3) must state:
 - a. How and where materials described under subsection (2) may be freely obtained;
 - b. That comments on the Housing Production Strategy Report may be submitted to the Department of Land Conservation and Development within 45 days after the department has received the submission; and
 - c. That there is no further right of appeal.
5. The submission under subsection (1) of this section must include copies of:
 - a. The signed decision adopting the Housing Production Strategy Report or amended Report;
 - b. The text of the Housing Production Strategy Report as provided in OAR 660-008-0050 and any amendments to the most recent Report submitted under this section;
 - c. A brief narrative summary of the Housing Production Strategy Report; and

- d. The information that the city reviewed and considered under subsection (6).
6. The Department of Land Conservation and Development shall review the accuracy and sufficiency of the Housing Production Strategy Report based upon the following:
 - a. Unmet housing need as described in ORS 197.296(6):
 - b. Unmet housing need in proportion to the city's population:
 - c. Percentage of households identified as severely rent burdened;
 - d. Recent housing development;
 - e. Recent adoption of a Housing Production Strategy or implementation of actions therein;
 - f. The city's response to address the housing needs of those experiencing homelessness;
 - g. Increased access to housing opportunity including the elimination of barriers to flexible, fair, and equitable housing options;
 - h. Other attributes that the Land Conservation and Development Commission considers relevant; and
 - i. Recent or frequent failure to address the metrics listed in the criteria in this subsection.
7. The Department of Land Conservation and Development shall, within 120 days after receiving the submission under subsection (1) of this section,
 - a. Approve the Housing Production Strategy Report;
 - b. Approve the Housing Production Strategy Report, subject to further review and actions recommended by the Department based on its review under subsection (6); or
 - c. Remand the Housing Production Strategy Report for further modification as identified by the Department.
8. A determination by the Department of Land Conservation and Development under subsection (7) is not a land use decision and is final and not subject to appeal.
9. The Department will maintain an annual summary of proposed Housing Production Strategies included in Reports submitted under subsection (2) and reports submitted under OAR 660-008-0060.

660-008-0060 Reporting on Housing Production Strategy Implementation

1. Cities required to adopt a Housing Production Strategy Report under ORS 197.209(1), must submit a narrative report to the Department of Land Conservation and Development for review and comment based on the following schedule:
 - a. For cities that are within a metropolitan service district boundary, no later than December 31st three years after the city adopted a Housing Production Strategy Report; or
 - b. For cities that are not within a metropolitan service district boundary, no later than December 31st four years after the city adopted a Housing Production Strategy Report.
2. The narrative report a city submits under subsection (1), must include the following:
 - a. A summary of the actions already taken to implement the Strategies to Meet Future Housing Need adopted in the city's most recent Housing Production Strategy Report. If the city has not implemented Strategies to Meet Future Housing Need on the schedule adopted in their most recent Housing Production Strategy Report, the city must provide an explanation of the circumstances or factors that posed a barrier to implementation and a plan for addressing the identified need that the strategy addressed;
 - b. A reflection of the relative efficacy of implemented Strategies to Meet Future Housing Need adopted in the city's most recent Housing Production Strategy Report; and
 - c. A reflection of the actions taken in response to the questions identified in OAR 660-008-0050(4).
3. Upon submittal of the narrative report developed under subsection (1), the Department will review the report for consistency with the Housing Production Strategy Report approved under criteria provided in OAR 660-008-0055(6). The Department may also consider reporting under Section 1(4), chapter 47, Oregon Laws 2018 as part of this review.

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

660-008-0065 Non-Compliance in Adoption of Housing Capacity Analysis or Housing Production Strategy Report

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

1. If a city determines that it will be unable to adopt a Housing Capacity Analysis or Housing Production Strategy Report by the prescribed deadline, the city must notify the Department of the expected delinquency at least 60 days before the applicable deadline for a Housing Capacity Analysis or Housing Production Strategy Report. In response, the department and the city may agree to remediation either through enhanced review of documents, directed technical assistance to overcome the impediment as available, or other similar measures, and include timelines for completion.
2. If the city has not submitted a Housing Production Strategy Report for Department of Land Conservation and Development review by the deadline provided in OAR 660-008-0050 and has not notified the department of an expected delinquency, the department shall work with the city and may seek mitigation of the delinquency through an Intergovernmental Agreement outlining specific compliance actions, timeline of deliverables, and subsequent enforcement actions. The Intergovernmental Agreement may or may not include directed technical assistance or financial resources.
3. If the department and the city have entered into an Intergovernmental Agreement and the city, at the discretion of the department, has not sufficiently mitigated the identified delinquency, the department may remove the city from consideration of technical assistance or other financial resource awards.
4. If the city does not adopt a Housing Capacity Analysis or Housing Production Strategy Report as provided in this division, does not enter into an Intergovernmental Agreement with the department to remedy the deficiency, or does not comply with the terms of an Intergovernmental Agreement to remedy the deficiency, the department may request the Land Conservation and Development Commission to act under ORS 197.319 to 197.335 to require the city to comply with ORS 197.295 to 197.314, this division, or statewide land use planning goals related to housing or urbanization.

660-008-0070 Non-Compliance in Adoption and Implementation of Strategies To Meet Future Housing Need Identified in a Housing Production Strategy Report

The Department of Land Conservation and Development shall review a city's Housing Production Strategy Report and narrative reports pursuant to OAR 660-008-0060 based upon criteria provided in OAR 660-008-0055. As provided in OAR 660-008-0055, a Housing Production Strategy Report must include a list of Strategies to Meet Future Housing Need including an expected timeline for adoption and implementation for each strategy. If there is a delinquency in the adoption or implementation of an identified strategy, the department will engage with the city in one or more of the following actions:

1. If circumstances impede a city's ability to implement one or more Strategies to Meet Future Housing Need in coherence with the timeline adopted in the city's Housing Production Strategy Report, the city must notify the Department of the expected delinquency within 90 days of the end of the timeline to implement the specific Strategy to Meet Future Housing Need adopted in the city's Housing Production Strategy Report. The notice must identify specific actions, or a combination of actions, that the city is currently taking, or will take, to address the delinquency. This may include, but is not required to include, amendments to the adopted Housing Production Strategy Report such that the city identifies a different action, or combination of actions, to address the specific housing need. The department and the city may

agree to remediation either through enhanced review of the documents, directed technical assistance to overcome the impediment as available, or other similar agreement.

2. If a city does not take sufficient action to mitigate the identified delinquency, either through a failure to provide notice to the department as provided in subsection (1) or through a failure to implement the specific actions, or combination of actions, by the timeline identified in the notice to the department pursuant to subsection (1), the department shall work with the city and may seek mitigation of the issues through an Intergovernmental Agreement outlining specific compliance actions, a timeline of deliverables, and subsequent enforcement actions. The Intergovernmental Agreement may or may not include directed technical assistance or financial resources.
3. If the department and the city have entered into an Intergovernmental Agreement and the city, at the discretion of the department, has not sufficiently mitigated the identified delinquency, the department may remove the city from consideration of technical assistance or financial resource awards.
4. If the department finds that the city consistently or routinely does not satisfy the criteria provided in OAR 660-008-0055 or this section, the department may petition the Land Conservation and Development Commission to act under ORS 197.319 to 197.335 to require the city to comply with ORS 197.295 to 197.314, this division, or statewide land use planning goals related to housing or urbanization.

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