

HOUSING PRODUCTION STRATEGY TECHNICAL ADVISORY COMMITTEE MEETING PACKET #7



TO: Housing Production Strategy Technical Advisory Committee Members
FROM: Ethan Stuckmayer, Senior Housing Planner
SUBJECT: Housing Production Strategy Technical Advisory Committee Meeting Packet #7

Housing Production Strategy Technical Advisory Committee Members,

Below, you will find information that will help you prepare for the Housing Production Strategy Technical Advisory Committee (HPSTAC) meeting scheduled for **August 6 from 9am-12pm**. *IMPORTANT NOTE: Due to public health concerns, this meeting will be held entirely over Zoom. Please do not plan to attend this meeting in person at the DLCD offices in Salem.* At the time of the event, please follow the Zoom link in the meeting calendar appointment. Zoom offers both a video conferencing option and a telephone option.

Please review the information provided in this packet thoroughly in advance of the meeting. As usual, we will have a full agenda and look forward to receiving your guidance.

Additionally, it may be helpful to keep a copy of this packet close by in the event technology does not cooperate as we intend. We will reference packet page numbers when we are discussing specific items.

Request for Review and Comment on Meeting Packet Materials

It is expected that HPSTAC members come to each meeting prepared having read the materials and ready to discuss model code topics in detail.

The primary objectives for HPSTAC 7 are to:

1. Finalize Housing Production Strategy Report structures and requirements;
2. Finalize HPS Report review and enforcement structure; and
3. Review draft amendment to OAR 660-008

Included in this packet are materials for your review that will further describe the purpose, contextual background, timeline of the rulemaking process, preliminary model code structure and concepts. Please review these documents prior to the meeting on **August 6 from 9am – 12pm**.

HPSTAC Meeting Packet #7 Materials List:

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NOTE: We have provided a discussion worksheet as packet item #4. This worksheet will mirror the discussion anticipated during the meeting. Please use the worksheet to take down notes or formulate your questions for the project team. You can also use this to submit additional written feedback to the project team at the meeting.

If you have any questions on the materials in this packet or about the legislation itself, please feel free to contact me via phone or email, my information is listed below. We are grateful for your participation in this important initiative and look forward to working with you.

Thank you,



Ethan Stuckmayer

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Rulemaking Advisory Committee Charge:

Members of the Rules Advisory Committee (RAC) shall provide guidance to agency staff to implement the legislative intent of House Bills 2001 and 2003. While complying with legislative intent, RAC members are asked to work with agency staff to develop recommended rules that:

- *Acknowledge the importance of reasonable regulations such as mass, scale, and design in accordance with clear and objective standards.*
- *Provide for affordable living choices including access to employment and transportation choice.*
- *Allow for phased development consistent with infrastructure supply.*
- *Strive to result in equitable outcomes that benefit marginalized communities and/or people.*

Housing Production Strategy Technical Advisory Committee Meeting #7

August 6, 2020; 9:00 am – 12:00 pm

This will be a **remote** meeting only, please find connection details in the calendar invite.



PROPOSED AGENDA

Housing Production Strategy Technical Advisory Committee Meeting		
Time	Topic	Who
9:00 am – 9:10 am	Welcome, Opening Remarks, and Review Agenda <ul style="list-style-type: none">• <i>Zoom Software Overview</i>	<ul style="list-style-type: none">• Ethan Stuckmayer, DLCD• Samuel De Perio Garcia, DLCD
9:10 am – 9:15 am	TAC Member Introductions <ul style="list-style-type: none">• <i>Introduce yourself to the group</i>• <i>Name</i>• <i>Organization</i>	<ul style="list-style-type: none">• DLCD Staff• TAC Members
9:15 – 9:45 am	Housing Production Strategy Report Structure and Requirements	<ul style="list-style-type: none">• Samuel
9:45 – 10:15 am	Review and Enforcement of Housing Production Strategies	<ul style="list-style-type: none">• Samuel
10:15 am – 11:15 am	Draft OARs	<ul style="list-style-type: none">• Samuel• Ethan
11:15 am – 11:20 am	Next Steps and Wrap Up	<ul style="list-style-type: none">• Ethan• Samuel

Housing Production Strategy Technical Advisory Committee (HPSTAC) Meeting #6
July 20, 2020; 9 am – 12 pm
Zoom Virtual Meeting

Key Insights Summary

Developing a Baseline Methodology – One issue raised by HPSTAC members is how to ensure a baseline methodology of identifying need to ensure that there can be meaningful comparisons between cities. Because the RHNA is a one-time pilot, there is a need to formulate a methodology that cities can use in lieu of a state-provided set of data. Ultimately, it is clear that there will need to be some state role in developing a more consistent methodology to better enable identification of housing need and comparable Housing Production Strategy reports.

The Challenge of Measuring and Addressing Homelessness – TAC members raised several concerns and suggestions to better clarify needed vs. optional data sets in estimating residents experiencing homelessness. Similarly, TAC members noted that the focus for the HPS should be the production of housing units to meet the need, and while it is important to align with services needed to support and keep people in housing, it is not the core focus of the HPS.

Balancing Meaningful Engagement with City Capacity – TAC members wanted to ensure that engagement was structured in a manner that meaningfully incorporated feedback from housing producers and consumers while being sensitive to the capacity limitations of many cities. This balance should ensure a triangulation between identified housing need, an engagement of stakeholders, and the strategies identified to meet need.

Fair and Equitable Housing Outcomes – TAC members provided a series of suggestions to further refine questions in this section, including commentary on the newly proposed question on displacement and housing stability. It is clear that this section should not place a focus on providing housing in “high opportunity areas” but rather ensuring opportunity is provided in all areas. Additionally, there was significant interest in ensuring that the jurisdiction actively identifies and addresses barriers to the provision of housing, especially affordable housing.

HPS Process and Reporting – TAC members noted that the review and reporting process should not happen within a black box, but instead should have a clear and accessible way for other parties to get involved and provide feedback.

HPS Enforcement – TAC members raised the need to provide clear direction for the completion of an HPS and adoption of strategies to local jurisdictions, as well as the need to ensure that jurisdictions that pursue aspirational strategies are not punished should those strategies fail to move forward. Similarly, the enforcement should provide reasonable accountability to hold jurisdictions responsible for addressing need identified in their HNA/HPS. Members also provided feedback to ensure enforcement tiers have greater success in correcting deficiencies and ensuring compliance.

Attendees:

TAC Members:

1. Alison McIntosh
2. Andree Tremoulet
3. Angel Falconer
4. Ariel Nelson
5. Brian Martin
6. Chris Pryor
7. Deb Meihoff
8. Dan Riordan
9. Diane Linn
10. Joel Madsen
11. Kim Travis
12. Marisa Zapata
13. Mary Kyle McCurdy
14. Miranda Bateschell
15. Sandy Belson
16. Stephanie Jennings

Public:

1. Karen Perl Fox
2. Karlockert
3. Laura Weigel
4. Mary Piper

Staff/LCDC:

1. Ethan Stuckmayer
2. Casaria Taylor
3. Samuel De Perio Garcia
4. Sean Edging
5. Robert Mansolillo
6. Kevin Young
7. Emma Land
8. Commissioner Commissioner Hallova
Hallova

Meeting Minutes

Housing Production Strategy Structure

Homelessness

- Sandy: List Continuum of Care as a data source. In our area, the County is the CoC and does the point in time count and serving homeless population overall. This data is more at the County level and appropriately so. Is there a way to encourage counties to make this data available in a format that is useful to cities.
 - Dr Zapata: Depends on how counties aggregate. They have the option to get down to cities or rural areas. One challenge is with how many people were served and where – it becomes a question of “where there happens to be services”. You would want to overlay that with where you’ve seen housing market price increase and looking at McKinney Vento data. Data from continuum is a smaller subset – it doesn’t hurt to distribute need equally across jurisdictions based on population size. Happy to brainstorm this offline.
 - Kim: Clarify that what this says is data collected by CCOs, but Sandy raised CoC which are HUD designated entities. There are seven in the state and many are co-located within the county. There are 28 counties in the rural OR CoC.
- Andree: Agree with previous statements. I dug into CoC structure. Rural CoC has taken the 28 counties and divided it into seven regions. This is a planning unit around homelessness that might make sense. Additionally, it’s important to look at other data sources than PIT to know better where the need is, because services can drive that. Why not proportionally divide need between cities, but providing a credit to jurisdictions that already put more work into account. Next best – proportional via population. I will send resources to inform how this might be done.
 - Dr Zapata: Want to reiterate that housing units are what’s needed in addition to services. There’s a lot of good work around mobile permanent supportive housing. The

- only way people can stay in their housing is with services and assistance, but this isn't necessarily important for understanding the unit need.
 - Commissioner Hallova: Jurisdictions must use certain data, while allowing an option for using additional data – with an intent to have apples-to-apples comparison.
 - Dr Zapata: Not sure what the CCOs provide. Provide CoC as required and CCOs as additional.
 - Staff: CCOs were an additional piece raised by Drew Farmer, indicating that this could be extrapolated to the state.
 - Hallova: If this is a small data set, this shouldn't be on the "must" but instead the "additional".
- Stephanie: Want to underscore changing to data from CoC. Be clear with organizations providing the data about this requirement. On McKinney-Vento – I would like to understand the "adjusted to reflect average family size"
 - Staff: We understand that there is a need to adjust data.
 - Dr Zapata: Need to be careful because some of these numbers are unaccompanied youth. Let's workshop this offline (Kim, Andree, Stephanie).
 - Stephanie: None of these data sources are exact representations, they are to inform need. I am not sure that adjustments are necessarily needed.
 - Dr Zapata: Jurisdictions will want a "plug and chug" approach, but the best way to approach these data sources is to think it through carefully. We may provide guidance, but it won't neatly line up.
- Miranda: Clarify the PIT counts as one of the required elements. Is this anticipated to be required for the City to do? Or get from another organization? Here – that's not something the City would typically do.
 - Staff: You are correct. Cities will not be required to collect this information.
 - Marisa: It would not make sense for cities to collect this information. One of the big values of the PIT count is it's the only place where we get unsheltered counts. The challenge is you will see more people where there are more services available.
 - Miranda: Are these annual?
 - Marisa: Most are done annually – HUD mandates once every two years. Multnomah County does once every two years.
 - Commissioner Hallova: Clarify that these are existing data sources.
- Andree: Is it anticipated that the HNA already includes an allowance or allotment of housing for homeless folks. Why are we doing this here in this rather than the HNA?
 - Staff: Currently, the HNA doesn't go this far.

Engagement

- Deb: This is moving so much into the required section that I looked into best practices. The statement about methods a city may engage may not be particularly helpful. A best practice: Try to coordinate with all city processes to meet with similar community members, be it housing-related or not.
- Sandy: I didn't see anything in the legislation requiring public engagement, though I don't think it's a bad thing to do. We should particularly engage with the producers. I want to keep in context that this is an additional workload on cities that struggle to keep up with existing requirements. In a practical sense, if we take resources on engagement that we did – this adds a whole other element that will take time and resources from doing the actual outreach or measures/strategies to increase housing.

- Diane: As a follow up – this is always a challenge, but at the same time if this is the last thing that’s considered (i.e. a “checkbox”) we’re going to miss the point of what we try to achieve with this. Most communities have organizations that represent BIPOC communities. Cities should already have a relationship with these organizations. Connecting with non-profit partners is really valuable – we have had too much of an arm’s length, competitive dynamic. Similarly, the same nonprofits shouldn’t drive the process completely. We are often not incorporated into a lot of important housing decisions made at the city level.
- Dr Zapata: I think we should be careful to note that not all nonprofits are great at representing the communities they serve. I would love to believe that statewide there are organizations representing BIPOC, we know that there is not. The state should invest in that work to invest in capacity to bring marginalized communities to the table. Engagement is the thing we under-resource the most. Is this an opportunity to demand more from the state to actually do this engagement.
 - Sandy: In Springfield, we are an entitlement jurisdictions, we do the engagement for our consolidated plan. For non-entitlement jurisdictions, this would be more difficult. You don’t ask for input unless there’s something you’re going to do with it, because people get disengaged. Overall, I am not convinced a city is going to significantly move the dial. We need to think through engaging the community in terms of getting the input we need.
 - Staff: The way this is structured does not require a city to develop engagement except for housing consumers, housing producers, and people traditionally locked out of the engagement. What is important is the “influence” – i.e. how is this information being used to inform the HPS?
 - Commissioner Hallova: This has less to do with the state getting something and encouraging jurisdictions to ask questions they typically don’t ask during this process (marginalized communities and housing producers)
- Mary Kyle: Agree with Commissioner Hallova, Zapata, and Diane. I understand the issues raised by Sandy – While it may seem time or funding intensive at the beginning. In the long term, cities will save money and investments in the end through avoiding decisions that are ineffective. This process sets up an expectation that the city listens to what producers and consumers say.
- Brian: I am also sensitive to overload, especially for small cities. It sounds like the expectation is that there isn’t a one set “amount” of engagement. The state would expect to see a varying level of effort based on contextual factors. I think the second question under (a) contributes to the goal Ethan describes. This sounds like it could be from a paragraph to a research project. Ultimately, this is about what you are doing and not about the history. (b), (c), and (d) are just about doing engagement well. If you are not doing these, the engagement is not going to be effective.
- Miranda: I think this has come together nicely. I would say this is the most critical part. What is laid out here is the baseline for Goal 1. One thing I am cognizant of is a lot of this is going to be reporting out the actions a city took. It doesn’t say how the state will be assessing the engagement section. Is answering enough or are there other expectations that a city needs to hit? That should be clarified.
 - Commissioner Hallova: Engagement is only as important as the strategies you undertook. If staff gets to the HPS and finds that the strategies don’t address the engagement undertaken. This section cannot be looked to in isolation, but holistically as to how the city addresses what was derived from engagement.

- Miranda: The summary should be connected to the strategies that you took, not necessarily how the engagement was done. The evaluation is on the strategies you undertook.
- Commissioner Hallova: Will there be an evaluative criteria on this piece? Being explicit on how this will be evaluated will be helpful for cities.
- Sandy: I have a proposal: If you look at (d) – those first two sentences are about the who. If you change the tense to present instead of past. I would replace the historic piece with this.
- I took my hand down, but want to support Commissioner Hallova. This is similar to "what is good enough" for Community Engagement section. I wondered for this section "what is good enough." Instead of giving a laundry list of everything we do, it's tying back to what we said we are doing in the HPS and which strategies are tied to these outcomes. If you don't have a strategy to achieve these outcomes, then the HPS should be looking at more strategies. This helps a City to also understand how this section of the report will be evaluated.

Achieving Fair and Equitable Housing Outcomes

- Commissioner Hallova: Are these questions asked in relation to strategies they have selected or in a generic sense?
 - Staff: Holistic look at actions a city has taken and strategies in the HPS
 - Commissioner Hallova: The intro should be more specific and clarify that intent in the analysis. The whole point is that the cities do strategies that achieve these outcomes.
 - Provide clarification of Achieving Fair and Equitable Housing Outcomes to include both reflection and through production strategies.
- Alison: We shouldn't just be providing the opportunity to live in high-opportunity areas, but increase opportunity in areas where people already live. On homelessness, I would encourage us to use the words "people experiencing homelessness" we need to be reminded that we are talking about people. On gentrification, I hate the word "vulnerable". I think you could omit it.
- Sandy: I like addition of gentrification bullet. Echo Commissioner on adding access to opportunity to focus on strategies. I wonder about adding that language to the homelessness question. Clarifying "equitable distribution" is important. Is this geographical? I would want to avoid a situation where that would prevent housing options from being built.
 - Commissioner Hallova: We have struggled with this particular question. This might not be the right question at all, but we need to know what the right question is.
 - Stephanie: In the context of the HPS and role of local jurisdictions – "How is your jurisdiction enabling the creation of permanent supportive housing and other housing opportunities to support people facing homelessness?" The vast majority of resources flow through CoCs, counties, and community action agencies. This is not something jurisdictions have a lot of control over. I would suggest shifting this to focus on housing, and consider what the role of the jurisdiction is in enabling and supporting it.
 - Dr Zapata: "Is your jurisdiction making progress/providing housing that accounts for people experiencing homelessness?" "How is your jurisdiction partnering with other organizations to promote/advance services that are needed to create permanent supportive housing?" Challenge is that so many of these efforts are not coordinated. On "equitably distributed" – what does this mean/look like and what is the goal? If you follow "housing first" principles, then you wouldn't have this to start with. On shelters, we don't have shelters any other place? It probably shouldn't be here
 - Hallova: Consider replacing this question with the ones raised.

- Brian: I am torn because there are good questions to ask here. I am interested in how they're going to be evaluated, because there is inherent tension between these questions. There is research that mixed income neighborhoods increase opportunity. If you add transportation for people with concentrated poverty. I am interested in seeing how the state will read these in a manner that recognized that complexity.
 - Staff: This gets to the review portion of the HPS.
 - Anyeley: On homelessness, when providing housing, you're providing housing for everyone and there's no special category for homelessness. There's really only income. This has always been an important topic, but if it's not a good question, it should be removed.
- Mary Kyle: Cities do zone land. Is there enough land zoned for the provision of lower income units/shelters/etc. for people experiencing homelessness. In my experience, shelters can encompass a variety of things including those who need shelter for a long period (e.g. domestic violence, leaving institutionalization, adults needing a permanent group home) Is the zoning adequate to provide these opportunities without going through unnecessary hoops. Often, in PDX when these are proposed, there is a lot of outcry.
 - Kim: At OHCS, permanent supportive housing is a best practice. We have prioritized this in the statewide housing plan. I am curious about strategies in the meantime, because resources are scarce and housing development takes years. Maybe the meantime is ensuring that cities get out of the way of allowing these services and housing.
 - Dr Zapata: Shelter, tent camps, warming stations, etc. are not housing. We have a massive unsheltered crisis right now with a lot of pushback, but if we put this into an HPS, we further confuse people about how to address this – it's providing housing. If we want to put something in here about homelessness, it's about dealing with the zoning and neighborhood organizations blocking this through process.
 - Hallova: "How do you stop organizations from blocking the provision of affordable housing?" We could frame this similar to Dr. Z's suggestion or be clear that people can't block these elements.
 - Dr Zapata: Couldn't this be both?
 - Hallova: Yes, we should make this two different questions. One on barriers and the other on homelessness.
- Andree: Suggestion on calling out "neighborhood opposition" that you call out housing for people with disabilities. This is where you get into group homes and that is a huge issue, especially when talking about people with mental health issues. The other piece is that is part of "affirmatively furthering fair housing", but I do support the idea of calling out that particular issue as its own thing, because it is very concrete. On location/transportation, we know it's impossible to give everyone equal access. I suggest removing the word "equal" or replacing the term with "more equitable".
- Sandy: My concern is going to neighborhood groups and what cities are doing to stop them. I think the state's done a lot to address that (clear and objective language). If a project comes into clear and objective language, there's no ground to appeal. I don't know what you are expecting cities to do, given the existing requirements in place. I am concerned about adding that into here.
 - Hallova: Two examples in PDX of affordable units – One under neighborhood design standards and the other under landmarks commission. Historic reviews have caused issues with delaying affordable housing and making projects cost more.
- Mary Kyle: We need to ensure that zoning of cities do not get in the way of locating needed services and housing. On the language Andree proposed, I am fine with rephrasing of access –

the other part is “access to high quality schooling” when all schools should be high quality schooling. Neighborhood organizations use appeals to delay and cost time and money for affordable housing projects. On landmarks commission, they made the project go through significant expense redesigning the proposal.

- Hallova: Even the “character” piece. In coming up with criteria, the phrase “neighborhood character” was in there which stops housing from happening.
- Joel: I see an opportunity to assess consistency of the HPS to align with the comprehensive plan. What other barriers preclude housing development. It could even be a city charter that gets in the way of affordable housing development that this question can address.

Annual and Mid-Point Reporting

- Andree: I think the structure is fine, but I do think it would be great if the rulemaking system had a way for advocates to stay abreast of annual and mid-point reports. Rulemaking should ensure that this information is available for review and comment for advocates, guidance about who comments should be provided to, and assurance that DLCD/LCDC will consider comments before taking action. The PAPA process provides a model – periodic packet of submitted documents. This shouldn’t be a closed process.
- Tom: I second Andree’s point. Even now, we send in these reports and it disappears into a black hole. No analysis by DLCD on trends or information sharing. We need more information on what happens to these reports to give us a bigger picture, rather than focusing on individual jurisdictions.
 - Hallova: Maybe we could limit the size of these reports to enable people to quickly review them.
 - Staff: Trying to tie this to specific indicators (A1, B14, etc) so we can indicate what cities choose which strategies.
 - Andree: Two parts – how do you keep advocates in the loop in a timely way? What do you do afterwards to learn and information share?
- Deb: Through enforcement, a large portion is to hold cities accountable. It ties in with this reporting mechanism. Developing a dashboard that shows where all twenty places are in the process would be useful.
- Mary Kyle: Second Deb – might be a second version of the PAPA process. I want to reinforce that there are two levels of goals. One is the “bigger picture”. The other is the real time accounting of cities. I don’t see here dates by which the city will do things. How do we know that each of those 12 strategies in the HPS is moved through the city in the timeframe they committed to. This would be good to incorporate into the dashboard.
- Ellen: Our local associations are monitoring the PAPA process, so if this comes through, there will be engagement from our locals, but we won’t have resources statewide to track strategy implementation. Will this fall under citizen enforcement?
 - Staff: This may fall within the same category. We will bring this up with DOJ. If adopted as part of the comp plan, it may open the opportunity for that.
 - Tom: Please clarify relationship between HNA and HPS. I thought the HPS was *not* a land use decision.
 - Staff: We will clarify how this is adopted in relationship in the Comprehensive Plan.
 - Ariel: We should clarify what the expectations are as much as possible.

- Mary Kyle: Ellen is raising a different point, not the HPS, but if a strategy lists a specific provision and doesn't happen or is different than proposed, is that discrete thing appealable or subject to an enforcement order?
- Sandy: Legislation provides clarity. Bill requires cities to provide notice and DLCD to review comments within 45 days of submission and incorporate comments into review of strategy. I don't think this is a part of the comprehensive plan. Section 4(5) – it is not a land use decision and not subject to appeal. In terms of what happens if a city does not make progress is under Section 6 where DLCD has enforcement ability if the city does not follow through nor provides an adequate explanation.

HPS Review

- Hallova: Ensuring engagement, strategy, and production are triangulated is the critical evaluative element.

HPS Enforcement

- Joel: Where does DLCD staff feel that the assessment in adequacy of an HPS is tied to this enforcement. These tiers talk about global timelines, but doesn't address incomplete HPS.
 - Staff: This will likely involve some clarification.
- Mary Kyle: I appreciate the two track and concept of tiered approach. The key is how does anyone else know that the jurisdiction and DLCD are working together to address a deficiency. Also, I realize that DLCD has limited "sticks" – I am not sure that withholding TGM grants is enough of a stick (withholding a carrot).
- Chris Pryor: Something that came up is the degree to which this affects the policy created by the body. e.g. in Eugene, we have a general fund based on priorities of the elected body. We divide this money along these priorities. We want to provide incentives for low-income housing. We don't produce the housing but provide the tools, but it requires us to make policy decisions about the provision of funds – this could say, "as you create your policies, this is given a priority, or we will come in and enforce it for you" This has the ability to impose requirements on the policy setting of a body. Be explicit about this to jurisdictions.
- Ariel: My understanding is that there is a recognition that jurisdictions will be limited in their ability to implement strategies. There may also be measures that fail. My feedback would be to ensure that this is clear. We want jurisdictions to be aspirational and not to be punished for changing conditions.
- Brian: Pg 41 with fair and equitable housing – If I am writing the report as a city staff member, I am not seeing a lot on the following pages as to whether I am going to be successful. I am wondering if there's something else to say about how the criteria are going to be considered and how the state might handle the internal conflicts from different priorities. On enforcement, I appreciate the two-tracks. Revising Tier 3 may be appropriate for providing clarification for what constitutes a sufficient HPS. On financial enforcement, a targeted grant might get them there and sometimes you might need to withhold.
- Sandy: Pg 44 on the right-hand column. I would separate the two paragraphs of Tier 1 to be two tiers.
- Brian: On the "aspirational" piece, what is the case – cities do not have incentive to be aspirational if they have to report when they don't do something. You may want to allow a place for the aspirational.

- Sandy: Maybe propose instead of expecting city to meet “all” of it, indicating if you make a certain amount of progress and meeting the need is fine.
- Stephanie: I want to make sure that jurisdictions are able to reflect continued implementation of an already adopted measure, continuing to do that costs the jurisdiction money and is a strategy. Differentiating between actions you commit to take vs actions you commit to explore. If councils are adopting these HPS, they can’t commit on behalf of future councils and I want to give jurisdictions the ability to differentiate between those two things.
- Anyeley: It would be helpful to incorporate accountability with the understanding of what a jurisdiction can reasonably achieve.

Next Steps

#1

COMPLETE

Collector: Web Link 1 (Web Link)
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Page 1: HPSTAC Meeting #6 Discussion Worksheet

Q1

A Regional Approach to Homelessness - DLCD has heard that a city's obligation to provide housing for their homeless communities be directed from a regional level, rather than from a city level. Given that OHCS' RHNA is only a prototype at this stage of rulemaking, and may not continue past the biennium, what systems can cities begin to put into place in order to adequately contextualize housing need on a regional level, as well as contribute to social and housing infrastructure that supports the homeless community?

Cities can play an active role in Continuum of Cares, support siting of permanent supportive housing and other forms of housing for people experiencing homelessness.

Q2

Engagement - Significant additions to the Engagement section have been added in this version of HPS Report structure. Are there any big-picture ideas and/or questions that will need to be addressed as the HPS Report structure becomes finalized in the next draft? Additionally, is it appropriate to conduct engagement concurrent with other housing engagement efforts within a city? If so, what should be the time limit on incorporating past engagement findings?

Please make it clear that the engagement goals can be accomplished through work conducted for Consolidated Plans and other related planning efforts. It is overly taxing to go to the same marginalized communities with similar questions for multiple planning processes.

Q3

Opportunity - Do the changes to the "Access to Opportunity" question better encompass the concept of "opportunity"? What language should we consider to ensure that the definition of "opportunity" is more clear, yet flexible enough to apply to various communities where opportunity may look different?

As jurisdictions implement plans and investments in particular areas they should also be thinking about how best to incorporate equity and opportunity into those plans. If jurisdictions have any areas that meet HUD's definition of a racially or ethnically concentrated area of poverty they should describe how they are seeking to address this issue.

Q4

Gentrification/Displacement/Housing Stability - A question was developed in the "Achieving Fair and Equitable Housing Outcomes" section to directly address housing instability and areas vulnerable to displacement. How can this question be structured to best ensure that cities meaningfully mitigate vulnerabilities to gentrification, displacement, and housing instability? Should this question be consolidated with any of the other questions?

People with limited incomes tend to occupy older housing stock which is often more affordable. This stock may or may be concentrated in specific neighborhoods. This stock is more likely to be redeveloped into denser and newer housing that will be more expensive than the housing that was there. How jurisdictions and the state manage these issues in the context of 2001 and 2003 is an important unanswered question. Unlike state law related to closures related to mobile home parks, there are no provisions for notification or displacement resulting from implementation of 2001.

Q5

Respondent skipped this question

Housing Production Strategy Tools - A list of tools/actions/policies that a city may implement to facilitate the production of housing is being compiled at this link: https://docs.google.com/document/d/1wg091os-MPyOML3TYtKu01895xsi47ZMVOhp_18Am8E/edit. Please share this list widely with your networks. The goal is to provide as many possible housing production strategies as possible for future reference as cities begin adopting Housing Production Strategies. This list of strategies will be included in a DLCD guidance document published after rulemaking has concluded. What specific tools/actions/policies should be added to this list?

Q6

Respondent skipped this question

Annual and Mid-Point Reporting - The department is finalizing the reporting structure for the Housing Production Strategy Program which will likely include a two-pronged approach with a data-heavy annual report built into the existing HB 4006 reporting requirement and a mid-HPS cycle narrative reflection. Are there any specific items not already discussed that you think the department should include as part of these reporting requirements?

Q7

Respondent skipped this question

Measuring HPS Progress - HPS progress will be measured by DLCD staff to ensure that cities are making good-faith efforts to create housing opportunity and address housing needs for the most marginalized of their communities. Though DLCD staff will not be looking at exact unit counts over a limited time frame, what attributes, in addition to the ones described in the Review and Enforcement Memo, should DLCD use to ensure progress in a city's HPS process is being made?

Q8

Measuring “Good Faith Effort” - What factors should DLCD and LCDC use to determine if a city is making a “good faith effort” to increase the production of housing in their city?

DLCD and LCDC should consider ongoing as well as new actions to address housing production within the context of the jurisdiction's size and capabilities.

Q9

Enforcement – DLCD staff has developed a tiered, two-track enforcement approach for consideration by the HPSTAC. It was informed with feedback from the RAC as well as enforcement mechanisms outlined in House Bill 2003. Do the identified tiers provide a reasonable and sufficient progression of enforcement actions to provide local jurisdictions reasonable opportunity to comply? Are there specific details we should consider in refining these tiers?

I would strongly encourage the addition of resources for technical assistance and training to be added to the DLCD toolkit. While enforcement action may be necessary in some cases, the much larger problem is the limited capacity and support for local jurisdictions in this area. A good comparison is the technical assistance and funding available through the state for transportation planning and project implementation. A similar system and set of resources is needed to support housing production as well.

Q10

Additional Comments?

I would encourage DLCD to form an advisory council that meets quarterly to discuss the progress and roll out of 2001 and 2003 with representation from various interest groups. I would also encourage a review after the first year of implementation to consider any necessary changes.

#2

COMPLETE

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Q1

A Regional Approach to Homelessness - DLCD has heard that a city's obligation to provide housing for their homeless communities be directed from a regional level, rather than from a city level. Given that OHCS' RHNA is only a prototype at this stage of rulemaking, and may not continue past the biennium, what systems can cities begin to put into place in order to adequately contextualize housing need on a regional level, as well as contribute to social and housing infrastructure that supports the homeless community?

The best local data available statewide (albeit still limited to children and in geography that doesn't always match city boundaries) is the McKinney-Vento data. I think using that data without adjustments to reflect average family size (which introduces more assumptions) is most useful locally and for sake of comparison.

In terms of city's role, as cities typically are not the service providers but do regulate land use, a city could ask the Continuum of Care to identify any zoning impediments to providing the services needed to support people who don't have their own homes.

Q2

Engagement - Significant additions to the Engagement section have been added in this version of HPS Report structure. Are there any big-picture ideas and/or questions that will need to be addressed as the HPS Report structure becomes finalized in the next draft? Additionally, is it appropriate to conduct engagement concurrent with other housing engagement efforts within a city? If so, what should be the time limit on incorporating past engagement findings?

Limit the required engagement questions on the present. Move the historic perspective questions over to the proposed guidance/best practices.

The time period covered should include activities that have occurred since creation of the previous housing production strategy.

Q3

Opportunity - Do the changes to the "Access to Opportunity" question better encompass the concept of "opportunity"? What language should we consider to ensure that the definition of "opportunity" is more clear, yet flexible enough to apply to various communities where opportunity may look different?

Needs to be clear that the context of this question is on housing. Different people need different opportunities (students need schools vs. workers need employment, vs retirees need medical - people with different disabilities - etc) and physical geography by definition means that walking access to the elementary school may not result in walking access to the local industry. Similar to the meeting discussion about location/transportation - not all access is equal since everybody can't live in the same place and a bus isn't going to go down every street.

So, suggest that Access to Opportunity be reworded to something like "Access to Housing Choice - How is the city facilitating access to housing in neighborhoods where people of color, low-income and other historically marginalized people may choose to live."

Q4

Gentrification/Displacement/Housing Stability - A question was developed in the "Achieving Fair and Equitable Housing Outcomes" section to directly address housing instability and areas vulnerable to displacement. How can this question be structured to best ensure that cities meaningfully mitigate vulnerabilities to gentrification, displacement, and housing instability? Should this question be consolidated with any of the other questions?

I think this question works as a stand-alone question.

Q5

Respondent skipped this question

Housing Production Strategy Tools - A list of tools/actions/policies that a city may implement to facilitate the production of housing is being compiled at this link: https://docs.google.com/document/d/1wg091os-MPyOML3TYtKu01895xsi47ZMVOhp_18Am8E/edit. Please share this list widely with your networks. The goal is to provide as many possible housing production strategies as possible for future reference as cities begin adopting Housing Production Strategies. This list of strategies will be included in a DLCD guidance document published after rulemaking has concluded. What specific tools/actions/policies should be added to this list?

Q6

Respondent skipped this question

Annual and Mid-Point Reporting - The department is finalizing the reporting structure for the Housing Production Strategy Program which will likely include a two-pronged approach with a data-heavy annual report built into the existing HB 4006 reporting requirement and a mid-HPS cycle narrative reflection. Are there any specific items not already discussed that you think the department should include as part of these reporting requirements?

Q7

Respondent skipped this question

Measuring HPS Progress - HPS progress will be measured by DLCD staff to ensure that cities are making good-faith efforts to create housing opportunity and address housing needs for the most marginalized of their communities. Though DLCD staff will not be looking at exact unit counts over a limited time frame, what attributes, in addition to the ones described in the Review and Enforcement Memo, should DLCD use to ensure progress in a city's HPS process is being made?

Q8

Respondent skipped this question

Measuring "Good Faith Effort" - What factors should DLCD and LCDC use to determine if a city is making a "good faith effort" to increase the production of housing in their city?

Q9

Respondent skipped this question

Enforcement – DLCD staff has developed a tiered, two-track enforcement approach for consideration by the HPSTAC. It was informed with feedback from the RAC as well as enforcement mechanisms outlined in House Bill 2003. Do the identified tiers provide a reasonable and sufficient progression of enforcement actions to provide local jurisdictions reasonable opportunity to comply? Are there specific details we should consider in refining these tiers?

Q10

Additional Comments?

I don't think we need a question on homelessness in the category of "Achieving Fair and Equitable Housing Outcomes". We're capturing the problem in the Contextualized Housing Need and I don't know that answering another question is going to help in identifying strategies to pursue.

Or, maybe we ask the question of the Continuum of Care I listed above in terms of "Are there any zoning impediments to locating services needed by those living without housing?"

In response to the question posed in the follow-up email, as the committee's been saying - a housing unit is a housing unit. I don't know that the city would be doing anything different in enabling the provision of housing options for people experiencing homelessness than it does for any other housing options, unless there is a financial contribution toward supportive housing. I think the partnership part of the question is OK.

#3

COMPLETE

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Page 1: HPSTAC Meeting #6 Discussion Worksheet

Q1

A Regional Approach to Homelessness - DLCD has heard that a city's obligation to provide housing for their homeless communities be directed from a regional level, rather than from a city level. Given that OHCS' RHNA is only a prototype at this stage of rulemaking, and may not continue past the biennium, what systems can cities begin to put into place in order to adequately contextualize housing need on a regional level, as well as contribute to social and housing infrastructure that supports the homeless community?

The focus should be on the 0-30% income tranche when considering housing needs for people experiencing homelessness. Requiring shelter capacity in all cities at 10K and above is not reasonable, nor cost efficient, nor the best way to meet housing needs. Though ensuring that sheltering (especially providing shelter options out of existing buildings) should not be restricted in code or policy.

Q2

Respondent skipped this question

Engagement - Significant additions to the Engagement section have been added in this version of HPS Report structure. Are there any big-picture ideas and/or questions that will need to be addressed as the HPS Report structure becomes finalized in the next draft? Additionally, is it appropriate to conduct engagement concurrent with other housing engagement efforts within a city? If so, what should be the time limit on incorporating past engagement findings?

Q3

Opportunity - Do the changes to the "Access to Opportunity" question better encompass the concept of "opportunity"? What language should we consider to ensure that the definition of "opportunity" is more clear, yet flexible enough to apply to various communities where opportunity may look different?

It should be about choice. Opportunity is different for every population and even individual household. the best mechanism for ensuring opportunity is through choice, which should be measured by adequate housing capacity by income level.

Q4

Gentrification/Displacement/Housing Stability - A question was developed in the "Achieving Fair and Equitable Housing Outcomes" section to directly address housing instability and areas vulnerable to displacement. How can this question be structured to best ensure that cities meaningfully mitigate vulnerabilities to gentrification, displacement, and housing instability? Should this question be consolidated with any of the other questions?

Housing stability should be measured by tenant protections in place. Displacement should be measured by capacity/opportunity, etc.

Q5

Housing Production Strategy Tools - A list of tools/actions/policies that a city may implement to facilitate the production of housing is being compiled at this link: https://docs.google.com/document/d/1wg091os-MPyOML3TYtKu01895xsi47ZMVOhp_18Am8E/edit. Please share this list widely with your networks. The goal is to provide as many possible housing production strategies as possible for future reference as cities begin adopting Housing Production Strategies. This list of strategies will be included in a DLCD guidance document published after rulemaking has concluded. What specific tools/actions/policies should be added to this list?

None - this list is too long and should be more focused such that cities are encouraged to select the most impactful, relevant, and viable strategies to advancing housing production.

Q6

Respondent skipped this question

Annual and Mid-Point Reporting - The department is finalizing the reporting structure for the Housing Production Strategy Program which will likely include a two-pronged approach with a data-heavy annual report built into the existing HB 4006 reporting requirement and a mid-HPS cycle narrative reflection. Are there any specific items not already discussed that you think the department should include as part of these reporting requirements?

Q7

Measuring HPS Progress - HPS progress will be measured by DLCD staff to ensure that cities are making good-faith efforts to create housing opportunity and address housing needs for the most marginalized of their communities. Though DLCD staff will not be looking at exact unit counts over a limited time frame, what attributes, in addition to the ones described in the Review and Enforcement Memo, should DLCD use to ensure progress in a city's HPS process is being made?

Consider performance metrics (enacting new policies, engagement of the public to inform, use of changed code/policies, refining strategies over time, etc) AND ALSO market metrics (housing cost to incomes, etc) that are beyond the control of the city, but important information to continue to understand needs of the city and inform ongoing strategies needed.

Q8

Measuring "Good Faith Effort" - What factors should DLCD and LCDC use to determine if a city is making a "good faith effort" to increase the production of housing in their city?

public engagement activities, City council actions

Q9

Respondent skipped this question

Enforcement – DLCD staff has developed a tiered, two-track enforcement approach for consideration by the HPSTAC. It was informed with feedback from the RAC as well as enforcement mechanisms outlined in House Bill 2003. Do the identified tiers provide a reasonable and sufficient progression of enforcement actions to provide local jurisdictions reasonable opportunity to comply? Are there specific details we should consider in refining these tiers?

Q10

Additional Comments?

It seems a more focused approach to the HPS strategies would support cities to focus on tools most applicable to their size/context and strategies most likely to create significant impacts in production. Also a more narrowed HPS list help the State in their approval process.

Rulemaking Advisory Committee #8
Zoom-only Meeting
July 14, 2020

Key Insight Summary

Housing Production Strategy Structure – RAC members offered specific recommendations to the Housing Production Strategy report structure to better analyze and incorporate issues of equity, including homelessness, access to opportunity, and gentrification/displacement. RAC members noted that developing clear definitions and instructions for analysis will be important in achieving meaningful equity outcomes. Additionally, RAC members brainstormed best practices for jurisdictions to consider in tracking and evaluating the effectiveness of strategies over time.

Housing Production Strategy Review and Enforcement – There is general agreement among RAC members that one of the key purposes of the Housing Production Strategy is to ensure that local jurisdictions are taking a more active, positive role in the production of needed housing and meeting their Goal 10 obligations, while acknowledging that cities are only one player in the larger environment of housing production. Review and enforcement should be structured to reflect this, with review and enforcement procedures working to ensure good faith efforts of jurisdictions to increase the production and affordability of housing. RAC members suggested DLCD should take a two-track approach to HPS compliance, each with varying tiers of enforcement. One track would focus on the actual completion of an HNA and subsequent HPS according to the 6-8 year schedule required by law, while the other track would focus on enforcement related to adopting and implementing strategies identified in an HPS. Each tier of enforcement would provide an opportunity to remedy issues, with each subsequent tier containing escalating consequences.

“In Areas”: Flexibility and Equity – In light of a letter sent from LOC on behalf of local jurisdiction urging the Department to provide additional flexibility to local jurisdiction in determining where middle housing types are permitted, RAC members discussed proposed options for the Department to consider. Members from local jurisdictions feel that the proposed “whittle away” approach in combination with minimum compliance standards bind the ability for local jurisdictions to regulate higher middle housing types, and propose an alternative in which local jurisdictions retain the flexibility in determining where middle housing may be located while ensuring that decisions meet Department expectations and do not reinforce patterns of segregation. Housing advocates note that this flexibility of local jurisdictions has been historically used to reinforce patterns of segregation, and the proposed standards do not provide sufficient specificity to sufficiently prevent inequitable zoning decisions and patterns of segregation by race and income. DLCD staff will need to determine what approach could meaningfully address concerns of both flexibility and ensuring the provision of fair and equitable housing choices.

Cottage Cluster Model Code Standards – RAC members provided commentary on the draft Cottage Cluster code for Large and Metro Cities. Members provided general comments and direction to increase the flexibility and likelihood that cottage clusters will be built. Measures to increase flexibility include the ability to provide units on individual lots as well as limiting any additional standards (e.g. design, dimensional, and parking standards) that inhibit the feasibility of a cluster project. Finding the right balance of incentives will be critical for ensuring the successful implementation of cottage cluster code.

Attendees:

RAC Members:

- Allan Lazo
- Brian Martin
- Chris Pryor
- Colin Cooper
- Debbie Aiona
- Derrick Tokos
- Drew Farmer
- Ed Sullivan
- Ellen Miller
- Hope Beraka
- Jacen Greene
- Jeannine Rustad
- Jesse Sharpe
- Joel Madsen
- Kelsey Zlevor
- Kimberli Fitzgerald
- Lynne McConnell
- Mark Rust
- Martha Fritzie
- Mary Kyle McCurdy
- Michelle Glass
- Nancy Donovan
- Nancy McDaniel
- Sarah Adams-Schoen
- Shannon Vilhauer
- Stephanie Jennings
- Ted Reid
- Tim Morris

Public:

- Alexis Biddle
- Anthony Farmer
- Ariel Nelson, LOC
- Kim Armstrong
- Kyle Macadam
- Laura Kelly
- Lauren Sommers
- Mary Piper
- Robin Smith
- Olivia Cleaveland
- Pauline
- Sophie McGinley
- Terri Harding

Staff/LCDC:

- Casaria Taylor
- Sylvia Ciborowski
- Robert Mansolillo
- Ethan Stuckmayer
- Sean Edging
- Kevin Young
- Gordon Howard
- Commissioner Anyeley Hallova
- Emma Land
- Anne Debbaut
- Palmer Mason

Meeting Notes

Meeting overview – HPS Structure and Enforcement and HB 2001 Large Cities “In areas” and Cottage Cluster standards

Update on Rulemaking process overview and timeline.

- Hallova HPS Strategies timeline
 - Cutoff of Aug 19th to provide RAC members time to submit last minute strategies

Housing Production Strategy – Review and Enforcement

- Purpose to discuss Review and Enforcement of HPS
- Overview of previous HPSTAC meeting from Mary Kyle
 - Agreement to better incorporate data by race to advance racial equity

- Discussion of data for those facing homelessness
- Local jurisdictions play a significant role in producing housing in terms of removing barrier and providing incentives
- Fair housing planning and HPS alignment with Consolidated Plans and Analysis of Impediments
- “Access to Opportunity” – Best approach to ensure local jurisdictions are providing access to opportunity, especially for communities who have been historically locked out.
- Reporting requirements – alignment with HB 4006 and need to collect data on tenure and affordability.
- HPS Structure – Up front need to link HNA and RHNA regarding housing types/affordability with gaps locally, and being intentional about who the market is not reaching.

Homelessness

- Jesse: Data on homelessness [Review recording]
 - Drew: It is difficult to know where individuals are residing within a region. I agree with the changes.
 - Allan: Is there a system around COC or community activist organizations for sharing data on homelessness?
 - Jacen: The McKinney-Vento data will be great for rural communities if you apply the right factor based on assumed family size (not complicated).
 - Staff: The intent of the “blended” approach is to allow jurisdictions to use the best available data, with an understanding that it is often a barrier.
- Michelle: When thinking about equity and TAC recommendations on connecting HNAs – I am curious about how historic mix is often used to project future housing need. E.g. Southern Oregon uses existing low density patterns to project future housing, which may conflict with goal of providing more affordable options to people who have been traditionally locked out.
 - Staff: In lieu of revising HNA, we can ask cities specifically how their projected housing need actually serves contextualized need in the HPS.
- Ed: How are you addressing needs of those with disabilities? Did not see in the RHNA.
 - Staff: This would be part of the additional work that a City needs to do in terms of understanding full breadth of housing need. We have not incorporated this specific analysis as a requirement, but it is part of the fair housing analysis that they do in the later portion of the HPS on Fair and Equitable Housing.
- Debbie: We want jurisdictions to have sufficient capacity and resources left to focus on actually work on production. So, giving them flexibility on how they fulfill this requirement should help by not overburdening them with onerous reporting and analysis.
- Mary Kyle: Should we require that if the CCO and/or McKinney-Vento data is available for a jurisdiction, that they use it? And any other data they want?
 - Hallova: It seems that there should be a base requirement and allow the ability to go above and beyond.
 - Jesse: This is a good idea. Every school district in the state is required to collect McKinney-Vento data.

Engagement

Update on making this section more specific and an outline of the structure.

- Debbie: Remind you to consult taxpayers in addition to consumers and producers
- Staff: SB 1051, which passed in 2017, revised the definition of "needed housing" in ORS 197.303 to specifically include the housing needs of low, very low, and extremely low income households. This requires a more detailed discussion and analysis of low income housing needs in HNAs since the bill passed.

Strategies and Tools

Update on the role of a Housing Production Strategy in meeting needs over a 20-year planning period.

- Hallova: Tenure and income – wondering about standardizing these things. Income should be broken down in a specific way.
 - Staff: Tools, policies, and strategies will work to analyze affordability and tenure.
 - Hallova: Publicly-Subsidized (< 30% AMI), Affordable (30-80% AMI), Workforce (80-120% AMI), Market Rate (> 120% AMI)
 - Tim: Seems to be comprehensive
 - Hallova: When people collect building permits, jurisdictions would be able to receive data they don't normally have. I don't know if we can require that, but it would be nice to have that information.
 - Staff: Good to provide in best practices
 - Ellen: Providing that information at building permit would be welcome from builders. Support the idea of incorporating into best practice

Achieving Fair and Equitable Housing Outcomes

Update on the updates to the five major questions.

- Hallova: If we use a defined term with a definition or geography that specifies what we mean to make implementation clear.
 - Stephanie: Part of the discussion was the federal definition doesn't fit the Oregon context, it was designed at a national level to apply to a lot of different areas. This discussion is how to think about opportunity as not one or two census tracts but opportunity throughout an entire city. The intent behind this is to open access to opportunity that people have been locked out of, which is not the same as the federal definition of opportunity areas. This will look different for different communities and populations (e.g. family with children have different priorities than older people)
- Allan: On opportunity, I am not sure if the definition was a federal designation but an OHCS index.
 - Staff: They are federally designated.
 - Allan: We should look into one definition for what "opportunity" means. Leaving this to a community does not always result in the best outcome. Additionally, we have not addressed areas of vulnerability (e.g. displacement) and looking into strategies that mitigate vulnerability (e.g. preserving naturally occurring affordable housing).

- Staff: DLCD is working with Dr. Bates and Zapata on developing a guidebook on anti-displacement and how to incorporate this into the HPS.
- Mary Kyle: As someone who is not fluent in these various definitions/uses of “opportunity,” it is hard to determine how to think about this and its applicability. Will this be clarified, eventually?
- Staff: Makes sense to move from defined terms to have jurisdictions think about what this means
- Mary Kyle: We think through areas as mutually exclusive, many of these are entirely overlapping in some ways. It seems like there are a lot of basic common denominators.
- Derrick: What is DLCD looking for in terms of local jurisdictions to produce? Is this shelter beds? A broader scope of safety net services? How does this fit within the construct of HB 2003 and what we can realistically do. On HB 4006 reporting – On gross units produced, not net. Does not capture units that are demolished/lost as part of the report. Consider including that consideration in the HPS.
 - Staff: Intent of the HPS is to recognize that Cities are one important player in the future production of housing and ensure they are putting a good faith effort towards encouraging production.
- Hallova: We all have similar goals in this section and are struggling with “what do you ask? And what do you get in return?” and how this will move the needle. A lot of these questions haven’t been asked, which result in not getting answers. We need to get answers first to determine how our approach works or doesn’t work.
 - Allan: It's also the point I've made that the current Goal 10 ecosystem hasn't been asking these types of questions.

Reporting

Update on two-pronged reporting approach with annual number data and a mid-term report with reflection of what has taken place. Provide feedback through survey.

Review and Enforcement

What is DLCD/LCDC’s role in reviewing Housing Production Strategies to ensure jurisdictions are making a good-faith effort in meeting identified housing need.

- Michelle: This is looking really great – the percentage of households that are severely rent burdened and linking that to houselessness. There was a 2018 Zillow report solidifying the link between rent burden and growth in houselessness. I see this as supporting houselessness data in this process, because cities can affect rent burden in significant ways.
- Shannon: What happens if there is a community within a city where there is active dissent to these principles like middle housing development. This is the concern in the back of my mind.
- Allan: It should not be a surprise that I'm supportive of the additional attributes item #2 about increased access to housing opportunity. Also, are the criteria listed here for review of the annual report, mid-term report or for the HPS report overall -- or all of them?
 - Staff: This portion would be for the overall report and the mid-point review would help us understand if a city is making advancements. The annual report would help identify progress.

- Tim: Curious as to why “severely rent burden” is called out over just “rent burdened”
 - Staff: This list is pulled from the list identified by the Legislature.
 - Tim: I raise it because we are seeing a lot of additional regular rent burden falling through the cracks of federal support.
- Joel: Curious to hear more from DLCDC on capacity to carry out and the goals/ideals identified in this RAC.
 - Staff: This is the goal of the enforcement conversation that we want to have. If something rises to the level of not meeting this, what is the process for remediation?
- Mark: Sandy Belson is on the HPSTAC, so I haven’t been tracking this. On the City perspective, how this is assessed is important – is there a consideration for a small city not having a lot of an impact. Will there be opportunity for a more regional consideration over isolated approaches.
 - Staff: It makes sense to not look at Springfield independently from Eugene. We have to take this context into consideration. It’s so unique that it’s difficult to write rules around this.
- Debbie: We support the two additional attributes that LCDC will address in its review of HPS sufficiency:
 1. The city's response to address the housing needs of those experiencing homelessness, and
 2. Increased access to housing opportunity including the elimination of barriers to flexible, fair and equitable housing options.
- Ed: Let me again raise my longstanding concern over the lack of standards for HNAs, which is the most significant element of the HPS. There simply aren’t those necessary criteria for evaluation. DLCDC has not sought review of HNAs in LUBA under the PAPA process. Is there any thought about getting HNAs to meet a common standard so that we can compare apples to apples in weighing the adequacy of a city HPS?
 - Allan: Agree with Ed. See my comment above about the Goal 10 ecosystem.
 - Mark: Agree with Ed also. HNA have not been upholding Goal 10 for a long time.
 - Staff: HNAs will need to address needs to low income, very low income, and extremely low income households. At the agency, we view that as heightened need for analysis and data in HNAs that come our way. Though this does not go fully to fix the issues with HNAs. With that said, it’s not clear that HB 2003 opens the ability to reconsider rules around HNAs. Certainly, we are interested in engaging in rulemaking to change divisions 7 and 8, but we are not likely to do that this biennium, but hopefully in the next biennium.
 - Hallova: If there was anything about the needs analysis that is most needed to be changed to address the comments that were made, is there something specific?
 - Staff: There are a few things we have discussed, including homelessness, housing underproduction, specialized housing need (ORS 197.303 provides a short list), etc. I think changes made by SB 1051 give heightened focus to low income. HNAs have gotten better, but the level of specificity will evolve. Local governments will be writing HNAs with HPS requirements in mind.
 - Jesse: there is also no standard or enforcement on engaging impacted folks. Despite 1051, a lot of cities continue to fall very short on this.

Enforcement

How do we respond if the “good faith effort” does not follow through. HB 2003 lists potential tools for enforcement. What is the hard stop at where enforcement ends? Where should enforcement begin? Are there tiers to this enforcement?

- Mary Kyle: How do you know if a city is “failing” and what do you do about it? There’s a statement of objectives – assuming a City’s HPS meets enough of the criteria but some strategies don’t work out, can the Department build in timelines for fulfilling need and if not, fixing issues when they arise with requirements to address failure with guidance from the Department within a timeframe to remedy the issue? E.g. reliance on a funding measure to support housing development that fails.
 - Staff: This reopens the review process. Interested to see the City perspective
 - Mary Kyle: The idea is that remedial actions should be taken into account in the process.
- Shannon: Thinking ahead, how do we reward optimistic and realistic endeavors to do this work. If there’s a community that is resistant – they maybe wouldn’t have access to certain types of programs.
- Kimberli: While my area of expertise is not HPS - I do have a lot of experience with compliance. I support the tiered enforcement approach. Generally I've found 3 steps that work: 1. Notice /opportunity for voluntary compliance- additional tech assistance offered from DLCD; 2. Enhanced Review with Formal correction required (with a clear action and timeline defined); 3. Enforcement (financial or other consequence).
 - Staff: Hearing the need to distinguish between need for resources vs jurisdictions being reluctant to perform the work and each warrants separate responses.
- Joel: Along with Shannon on tiered approaches, there are times where a community has an inability to adopt an HPS versus implementing policy recommendations from a HPS. Maybe this is how we define different tiers of enforcement.
 - Allan: I would agree with Joel and also agree with the tiered approach. It also seems like DLCD is being asked or asking to assess the intent of a jurisdiction's intent, which is not an enviable position to be in, but agree that there is a need to evaluate intent to comply vs. resist the underlying concepts of the legislation. Agree with Ethan that there does need to be a difference in response from DLCD based on evaluating intent.
 - Ed: Supportive of tiered approach.
- Mary Kyle: Because strategies can be more lofty, we should build the assistance/reward/assistance into the process. On the tiers, except that step 1 of a notice/opportunity is that they must comply mandatorily.
 - Staff: Advanced review would likely be at a latter time. The first may need to be more collaborative.
 - Mary Kyle: This is about Goal 10 (and historic failure to meet it) and we are being collaborative. Building timelines with deadlines should be built in. Failure to meet a deadline should require notice.

Large and Metro Cities Model Code and Administrative Rules

- Ellen Miller update from last MCTAC meeting: Greater and stronger focus on getting implementation right. The implementation is really important and we shouldn’t continue trends that have gotten us here today.

- “In areas” discussion – DLCDC brought RAC approach to the TAC, it was quickly raised by cities that there were more options than what was in the memos. Resulted into the letter from LOC, which is the basis of conversation today. Proposal in TAC meeting (pg 75) is applicability written to provide local government the ability to determine the areas. There was a difficulty in getting a comprehensive way of defining parameters, so DLCDC offered a process allowing the jurisdiction to include findings for areas “whittled away”. On protective measures: Provides degree of deference to cities. No longer considering numerical standards given arbitrary and exclusionary considerations.
- Feasibility research from ECONW (pg 57) – FAR will be considered as a development standard scaled to lot size. Parking – poses impacts on smaller lots.
- Townhouse development and design standards – No maximum limit on number of units and scaling lot size based on SFD lot size, and using lot size to regulate in lieu of minimum density. Discussed lot width and street frontage. Increase in total maximum height, up to three feet. FAR has been removed.

“In areas”

Update on previous MCTAC and subsequent conversations on changing the approach to “in areas” in light of issues raised by cities and LOC to provide jurisdictions greater deference in deciding where to allow middle housing.

- Brian Martin on issues with “whittle away” approach and alternative ideas
 - Outline of perceived issue with the “whittle away” approach taking flexibility from jurisdictions
 - Alternative of providing distributed outcome of lots where housing could be allowed.
 - Define Expectations: Allow middle housing in areas on significant number of lots
 - Development rules: provide opportunities to reduce segregation through distributing middle housing
 - Doesn’t exclude wealthy neighborhoods
- Allan: Brian, could you say more about how adopting the "whittle away" strategy as part of the model code or minimum compliance would prevent cities from implanting other strategies? Wouldn't they be able to implement those strategies as long as those strategies met the minimum compliance? Are you saying some of the strategies currently being used and implemented don't meet the proposed minimum compliance?
 - Brian: Minimum compliance provisions take away the specific tools cities use. Minimum lot size. Maximum density. Etc.
 - Allan: Thanks, yes, sounds like Robert is also addressing some of those examples.
- Colin: I want to characterize this third approach as not further whittling away. E.g. Hillsboro has provided and embraced middle housing, and what we would like is the ability to do master planning to provide variety of housing. We believe in meeting the entire market segment of housing that people need.
- Mark: I didn’t catch the third approach. Agreement with opportunity for flexibility. I want to highlight Section 2 (5) – Regulations that do not individually or cumulatively discourage development of all middle housing types. I am not thinking about wholly excluding an area, but there may be areas where certain types are not permitted but others are.

- Hallova: I understand the issue described and problem that comes with something not being specified everywhere – this allows for wealthy and powerful to have greater control over the outcome. What is the risk that contributes to tools to “whittle away” and the bad outcomes?
 - Ted: I concur with Commissioner Hallova's question. Is there actually a big risk that triplexes and fourplexes would be built on small lots?
 - Allan: I also concur with Comm. Hallova's question. Agree with Comm. Hallova's statement there about considering the extreme example from those cities that may not be well-intentioned.
 - Colin: We do not want to pit neighborhood against neighborhood. We are looking to enable greenfield development, it makes it more difficult to plan for maximum infrastructure. Additionally, historical lot standards may warrant additional restrictions. We want flexibility to create these wonderful neighborhoods.
 - Hallova: It's important to keep in mind the jurisdictions that would seek to undermine, and thinking through the extremes are important.
 - Brian: It is hard to come up with examples, because we haven't done our project yet, but one of the dangers is with the “one size fits all” approach for the state. The other danger is how cities react to minimum compliance – there is one city considering reducing their minimum lot size for SFDs and now there is less incentive to do that.
 - Mark: One example, in Springfield we are looking to reduce minimum SFD lot size. Part of the answer needs to be “exceeding the authority of the legislation”. If we call cities “bad actors”, it provides ability to spear into this solution.
- Jesse: I think it is really important to be clear that there are cities with stakeholder process that are rooted in traditional groups of developers. I am concerned that when we add too much flexibility, we have an increase in segregation in the community. Being aware on this call that we have a lot of people with good intentions, and that may not reflect when we implement these in Southern Oregon. I am always concerned about that excess flexibility.
- Mary Kyle: I have the same question as Hallova. I think there is more than one way to read the legislation. I remember of the lofty things we said in the beginning of this RAC about how we were going to do things differently. I think that is consistent with the intent of HB 2001 to break down segregated patterns. I am not persuaded by notions of ways we've done minimum lot sizes, density, or PUDs. In every city, we have increasing segregation and income/race polarization. This isn't about “good actors” or “bad actors” – we know we have segregated housing practices on the ground. I think we need to be bolder. “One size fits all” doesn't resonate with me because if it doesn't work in a City, it doesn't get built. Deciding to avoid increasing flexibility is not in compliance with Goal 10. Why would we not allow all of these liberally through greenfield development, because this is the opportunity to size things right. Having a % doesn't get at all to location, which is the point of HB 2001. These middle housing types are not dense enough for high frequency transit. I appreciate that the cities in their letter wanting to promote racial equity and decrease exclusivity, but I haven't heard anything specific about that and to know when it's being achieved.
 - I agree with Mary Kyle and Comm Hallova on this point
 - Kim Armstrong (public): I am a little concerned that this group is putting a lot of energy into seeking to avoid some edge case terrible middle housing developments that are extremely unlikely to actually occur in reality and to MKs point, no community has

existing housing that equitably meets the needs of its entire community. Clearly the ways we have done this historically doesn't work.

- Kim Fitzgerald: Are there any thoughts yet from DLCD staff about clear metrics for this third alternative that could be established under minimum compliance?
- Allan: As Hallova talked about earlier, we can recognize that we are of similar mind and intent. I wonder if we need to admit to some degree that what we are talking about is jurisdictions without that good intent. We know that the flexibility and intent built in has created income and racial segregation. I wonder if we need to recognize the flexibility we are talking about could be used either way.
 - Brian: Flexibility has to be accompanied by expectations and accountability.
 - Kim (public): I think Alan's point is excellent— flexibility has historically been disproportionately used to reinforce racial inequities in housing, there doesn't seem to be any reason to allow some areas with additional incentives for middle housing, starting from "assumed to be allowed everywhere"/whittle away
 - Staff: The definition of "in areas" can't be a neighborhood judgement call or a decision about how a neighborhood should look based on how they looked in the past. If there are ways for a city to say that a housing type isn't going to work, they can show that they need those tools back on the table.
- Hallova: If we can hone in on the issues, maybe we can find solutions that provide additional flexibility.
 - Allan: The opposite is not being expressed here. The "whittle away" approach was developed to prevent that. Perhaps there is a way to incorporate flexibility into that approach.
 - Staff: The intent of the third option is to provide that mean to provide findings to put additional tools back on the table. So long as there is no exclusionary portion and does not cause unreasonable cost or delay. The safe harbor outlines the approach that is acceptable, but allowing a local jurisdiction to go beyond that with the burden of proof on them to demonstrate it doesn't result into unreasonable cost or delay.
 - Sarah: I agree with Allan's point too. In the zoning context, flexibility has almost ubiquitously been used to cause and sustain racial and economic segregation in communities everywhere—liberal, conservative, etc. Some flexibility makes sense, but flexibility with clear standards are needed to make the kind of bold change that HB 2001 requires.
 - Allan: Yes, agree with Sarah above. So we'd need to look pretty closely as to whether we might be able to implement minimum compliance standards with clear standards that respect the intent for substantive change that HB 2001 intended.
- Timothy: This particular amendment go against the goal and intent of HB 2001. I don't understand the context in which it is being proposed. I struggle to picture the worst case scenario. Allan made a good point is that additional flexibility creates additional loopholes for exclusive communities. As a neighborhood advocate, this does encourage exploitation. We have to be careful in creating "flexibility" because it creates more opportunity for bad actors to utilize exceptions to block housing. We should try to create a long lasting bill, adding additional exemptions and convoluting what we see will not make it long lasting. My solution: I am not sure that this is the solution that we should go down. I think there is a lot of reason why we are

here. It's possible the word "area" was omitted and not addressed. Here, we have the opportunity to set the precedent for the word "area". Zoning laws have been used to address segregation, but I don't see this proposal addressing that.

- Ed: I see this as the defining moment for the RAC. There is a danger that "flexibility" will be used to undermine House Bill 2001, and the "presumptive" approach is correct. I think the "leaving out" is exceptional and should be justified. The work of this committee is to provide housing opportunity, not flexibility for jurisdictions. It is a state sanctioned device to exclude and discriminate. If we come up with a solution that is puffy and vague, then HB 2001 means nothing and the work of this group is a sham. It seems to me that the people who came up with this alternative need to come up with concrete standards. If you want to get out from under that obligation, show us your standards.
 - Brian: HB2001 includes flexibility, and cities have suggested expectations DLCD should set to prevent jurisdictions from evading the law's intent.
- Martha: At Clackamas county, when we say "City" we mean large, unincorporated areas. It's flexibility with expectations and accountability. We are trying to find a balance of all jurisdictions affected. It is really to write code for bad actors, but you can't penalize actors who are doing good work. I want to thank DLCD for entertaining this conversation. It is going in the right direction, but there is an understanding that we do not want a "one size fits all" or something that creates the potential for abuse. Finding the balance will be important.
 - Allan: Yes, thank you, Martha and others. Agreed that there is a balance we need to figure out how to strike here.
- Colin: It's absolutely about performance. We are just working on this now and we will fly forward to find something that works. Zoning as a tool is a blunt force and blanket, and you can point it to bad outcomes. We are looking to flexibility to create better opportunities, not less housing.
 - Sarah: The third approach has been described today as an approach that will allow cities to produce more middle housing and affordable housing in areas that traditionally excluded it. I have to admit I'm still not understanding how a presumptive approach is problematic given that goal stated today (by Brian and others, I think).
 - Mary Kyle: What are the concrete metrics by which residents and the public can understand, and DLCD can measure, whether "expectations" are met and the intent of HB 2001 is fulfilled? These words are still way too vague - "flexibility," "better communities," etc... are not it.
 - Brian: I'd suggest people start with the LOC letter and the letter on page 126 of the RAC packet. The concepts need additional details and specifics, but cities are willing to help make things more specific. Also, it is not hard to measure whether, as applied, a city's development code allows middle housing in a city and where.
 - Ed: No Brian, those are no standards. A vague opposition to segregation is not enough. Where is your standard in "Every jurisdiction would be expected to allow middle housing in a way that promotes racial equity and reduces historic segregation by race, ethnicity and income by providing the opportunity for a wider range of housing types to be built in areas zoned for residential use that allow detached single family dwellings." Where is your standard when you say that the state should establish standards. What are YOUR standards. You don't have them and should not expect us to consider what is

not before us. When you do have something, we can consider it, but don't leave us to the tender mercies of "flexibility" without a standard that is real, rather than aspirational.

- Jesse: Brian, we sit in meetings with a mayor who believes the city does not need to comply with goal 10. When confronted about segregation, he told us "if people can't afford to live here, there's cheap housing in the mid-west." We know that he will not comply if he is given the flexibility to do so. We can measure the lack of compliance but short of a lawsuit, the metric has no enforcement.
- Jesse: I think we need to be clear that meaningful accountability is extremely weak outside of the NWern corner of the state. If we increase flexibility with accountability, we need to make sure that accountability can be upheld in more rural and more removed metro communities.
 - Allan: Yes, thank you, Jesse. I think we often forget how different things potentially really are outside of the metro/urban areas.

Cottage Cluster Standards

Update on Cottage Cluster standards proposed in the LCMCMC. Context surrounding the intent behind developing code language around cottage clusters – develop a reasonable, off-the-shelf description of cottage cluster development and allow jurisdictions to define cottage clusters.

- Mark: My concern is ownership opportunity. I would push to come up with some kind of safe harbor language that could be integrated that could lead the way for somebody to easily integrate.
 - Staff: i.e. provide a modular option for fee-simple ownership
 - Mark: At the back of the packet is a letter from Spevak advocating for this and notes that it's a major obstacle to not allow fee-simple options because it is preferred and summarizes the consequence is that the product becomes a rental product. One of the biggest parts of our housing strategy is to increase ownership opportunities.
 - Mary Kyle: I like Mark's modular suggestion for cottage clusters.
- Hallova: The only type of cluster I attempted to do this, I needed to attach these (two-story) structures to the townhomes. Because of minimum setbacks, I was not able to pull it off.
- Hope: To expand on Commissioner Hallova's example, creating the cottage cluster inside of a townhouse project, the goal was to create four permanently affordable housing units. There were zoning complications that made it difficult to execute in a market rate project. I would prefer to not see additional limitations at all – there are plenty that already exist. With regard to parking, garages, etc. I would prefer not to see any additional limitations. I would try to make sure local jurisdictions couldn't further encumber projects like the Commissioner mentioned.
- Mary Kyle: I agree with Hope, on the 900 SF – it is defined as the footprint which could allow for two stories. They should be allowed to be attached or detached. We should err on making these more likely to be built.
 - Staff: That's typically what the market bears – two stories makes sense. We wouldn't want to create a situation where these clusters become so large that they don't serve the intended income groups.
- Hallova: Trying to be affordable at \$300,000 - \$350,000

Next steps and LCDC upcoming meetings.

HOUSING PRODUCTION STRATEGY ADVISORY COMMITTEE MEETING PACKET #7



TO: Middle Housing Model Code Technical Advisory Committee Members
FROM: Ethan Stuckmayer, Senior Housing Planner
SUBJECT: HPSTAC Meeting #7 Discussion Worksheet

Housing Production Strategy Committee Members,

In order to meet our ambitious timeline and schedule, meetings of the HPSTAC will need to be a space for robust conversation and discussion about agenda items. In order to facilitate this type of discussion, we have pulled specific topics, questions, and decision points from the meeting packet into this central discussion worksheet document. The intent of this document is to mirror the flow of the discussion and agenda items and should be used to collect your thoughts, comments, questions, and concerns on specific points.

*As you review the meeting packet contents prior to our meeting on **August 6 from 9am – 12pm**, please use this worksheet to take down notes or to formulate your questions for the project team. Due to limited discussion time at our meetings, please submit this as additional written feedback to the project team at the meeting as you see fit. Committee members will also be sent a link to a fillable version of this discussion worksheet as to collect additional questions or comments that may not have been expressed during the meeting.*

Thank you,



Ethan Stuckmayer

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HPSTAC Meeting Packet Item #5: Housing Production Strategy Report Structure and Requirements

[#1] Housing Production Strategy Report Structure: The Housing Team, RAC, TAC, and LCDC have weighed heavily on the HPS Report structure the past several months. After reviewing the finalized HPS structure, are there any major edits that need to be made prior to finalization of rulewriting?

[#2] Housing Production Strategy Report Structure - Interest has been expressed to continue an oversight structure in the form of a quarterly (or other frequency) advisory committee, which would further facilitate the implementation of HPS Reports as rules are institutionalized and cities are tasked to adhere to the requirements. Are there any other structures that could be put into place going forward to ensure that implementation gaps are addressed in the process of HPS rollout?

[#3] Housing Production Strategy Tools - A list of tools/actions/policies that a city may implement to facilitate the production of housing is being compiled at this link: https://docs.google.com/document/d/1wg091os-MPyOML3TYtKu01895xsi47ZMVOhp_18Am8E/edit . Please share this list widely with your networks. The goal is to provide as many possible housing production strategies as possible for future reference as cities begin adopting Housing Production Strategies. This list of strategies will be included in a DLCD guidance document published after rulemaking has concluded. What specific tools/actions/policies should be added to this list? **THE DEADLINE TO ADD STRATEGIES TO THIS LIST IS AUGUST 7, 2020.**

HPSTAC Meeting Packet Item #6: Reporting, Review, and Enforcement of the Housing Production Strategy Reports

[#4] Annual and Mid-Point Reporting - After reviewing all requirements of the annual and mid-cycle reporting structure for Housing Production Strategy Reports in the draft OARs, are there any major edits that need to be made prior to finalization?

[#5] Housing Production Strategy Review Requirement - After reviewing all criteria to measure sufficiency of HPS Reports and implementation progress here and in the draft OARs, are there any major edits you would like to identify and revise prior to finalization?

[#6] Housing Production Strategy Enforcement Criteria - After reviewing all components of the two-tiered Enforcement structure and draft OARs by which jurisdictions will be held accountable for, are there any major edits you would like to identify and revise prior to finalization?

Additional Comments

HOUSING PRODUCTION STRATEGY TECHNICAL ADVISORY COMMITTEE



MEETING PACKET #7

TO: Housing Production Strategy Advisory Committee (HPSTAC) Members

FROM: Ethan Stuckmayer, Senior Housing Planner; Samuel De Perio Garcia, Housing Planner

SUBJECT: Housing Production Strategy Report Structure Memo

Overview

The purpose of this memo is to provide an update for the Rulemaking Advisory Committee on the progress of the Housing Production Strategy Report Structure. This group is charged to outline a proposed organizational structure for the Housing Production Strategy (HPS) as required by HB 2003 for cities with a population greater than 10,000.

The goal is to have a standardized outline which jurisdictions can follow in drafting a Housing Production Strategy Report. This will ensure consistency of documents across jurisdictions for ease of comparison and evaluation. Furthermore, minimum compliance and guidance standards will be articulated through the rulemaking process in order to enforce what is required through HB 2003, as well as to convey additional, non-mandatory goals inspired by the bill.

We have incorporated changes to the Housing Production Strategy structure based on input from members of the HPSTAC and Rulemaking Advisory Committee (RAC). We are seeking feedback from TAC members on the report structure at the August 6 meeting to finalize the Housing Production Strategy structure, prior to submittal to the Secretary of State on August 28.

The goal for this memo is to:

- 1) Finalize feedback on the organizational structure and key elements of the Housing Production Strategies Report – the planning document that cities would ultimately create and submit to DLCD to fulfill the requirements of HB 2003

Updates on the HPSTAC Report Structure

Homelessness Data

After the last TAC meeting (July 20) and discussion at LCDC (July 23) there was further deliberation regarding requirements for including homelessness data throughout the HPS *Contextualization of Housing Needs*. There was concern that requirements were not taking into account current jurisdictional challenges for data gathering, in addition to limitations that may result in the event OHCS's RHNA project is discontinued. After the last TAC meeting, garnering feedback from LCDC, and then speaking with several homelessness experts, the project team was able to identify data sources available on a statewide basis, such as HUD Annual Homelessness Assessment Report (AHAR), which can be accessed

widely through regional Continuums of Care (CoCs). Further, additional data available through Coordinated Care Organizations (CCOs) have been transitioned to guidance rather than a requirement.

Fair and Equitable Housing Outcomes

In addition, questions presented in the *Fair and Equitable Housing Outcomes* section have been revised. After presenting at the July 23 LCDC meeting, there was renewed interest to integrate climate goals with housing goals. The project team also made adjustments to the homelessness questions as a result of discussion at the July 20 HPSTAC meeting and with homelessness and equity experts. These changes better define that cities will need to reflect on actions taken to provide for residents experiencing homelessness, as well as ongoing efforts to partner with other housing providers already doing this work.

Housing Production Strategy Report Structure

Pursuant to HB 2003, cities over 10,000 will be required to submit HNAs on a fixed 6-8 year schedule. The HNA will require the local government to identify a housing need that will be expressed as a number of housing units by type and affordability.

Furthermore, cities with population over 10,000 will also be required to submit a Housing Production Strategy Report within one year of HNA deadline. In the HPS Report, the city will be required to identify strategies to support the development of the housing needs identified in the HNA over the 20-year planning period. The sum of all the strategies proposed by a city must collectively be the city's best attempt to respond to the 20-year housing need identified within the HNA.

This Housing Production Strategy Report will be comprised of a five main components:

1. Contextualized Housing Needs describes a city's housing needs as identified by the most recently adopted Housing Needs Analysis. Per HB 2003, this section must include other considerations that describe current and future housing needs in the context of population and market trends. Additionally, because HNAs only calculate housing need by income group, the analysis often poorly estimates the housing needs of those experiencing homelessness. DLCDC proposes that cities conduct an analysis of the specific housing needs of the homeless population as part of this component.
2. Engagement identifies the process by which the city has engaged, or plans to engage, a diverse set of stakeholders in the development of the Housing Needs Analysis and Housing Production Strategy. This section is separated into two parts 1) engagement of needed housing consumers and 2) engagement of housing producers. This section requires that a city engage underrepresented communities in the Housing Production Strategy process and must describe how the insights gleaned from this engagement have impacted the housing production strategies the city plans to implement.
3. Strategies to Meet Future Housing Need outlines the specific tools/actions/policies that the city will implement to facilitate the production of housing. For each strategy, in

addition to stating the timeline for adoption and implementation, the city must address how the strategy overcomes patterns of segregation and fosters inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.

4. Achieving Fair and Equitable Housing Outcomes describe the actions taken by a city that further housing opportunity in the city. In this section, cities must outline specific or planned practices that link housing to transportation, affirmatively further fair housing, provide access in Opportunity Areas, address the equitable distribution of services, and create opportunities for affordable rental housing and homeownership.

5. Conclusion narrates the expected outcome of the proposed housing production strategies. This must include an analysis of the opportunities, challenges, and negative externalities that may result from the collective implementation of the strategies proposed. Specifically, this section must include a description of how the city expects to increase housing options for populations that have a disproportionately high need by answering a series of reflection questions.

Minimum Compliance vs. Guidance

Continued conversation and discussion with both the RAC and the HPSTAC further assist the department in delineating the **requirements** of a HPS Report from the **best practices, guidance, or the “nice-to-haves”**.

As rulemaking progresses, the department proposes the following Housing Production Strategy Report structure which will allow for consistent reporting across jurisdictions and DLCDC staff review – this is especially important in the *Contextualized Housing, Engagement and Strategies to Meet Future Housing Need, and Achieving Fair and Equitable Housing Outcomes* sections. This will help cities provide a baseline of information to DLCDC staff, with the opportunity to establish non-mandatory best practices for Housing Production Strategy Report preparation.

Based on committee feedback, below is staff’s understanding of the HPS Report requirements and guidance thus far. Updates since the last HPSTAC (July 20) and LCDC meeting are shown in **red**:

Proposed HPS Minimum Requirements	Proposed Guidance/Best Practices
<i>Contextualized Housing Need</i>	
<p><i>This section will include a short narrative, largely pulled from the jurisdiction’s adopted Housing Needs Analysis (HNA). The findings of the city’s most recent HNA should be the primary source highlighting Identified Housing Need in a Housing Production Strategy Report.</i></p>	<p><i>Because the HNA may not fully describe the housing need of a city, this section can include (to the extent possible), but is not to be limited to the following information for further contextualization of housing need:</i></p> <ul style="list-style-type: none"> • Percentage of housing stock that is market rate vs. subsidized;

In adherence to HB 2003, Section 4(3), this section shall include consideration of:

- Socio-economic and demographic trends of a jurisdiction’s population;
 - Disaggregated by race
- Measures already adopted by the city to promote the development of needed housing;
- Market conditions affecting the provision of needed housing; and
- Existing and expected barriers to the development of needed housing.

Other housing needs to respond to for Department review under section 6, subsection 2 of HB 2003.

- Housing need for those experiencing homelessness:
 - To understand the need, a city must use the following data sources, **in partnership with data accessible to statewide Continuums of Care (CoCs),** as available:
 - Regional homelessness housing need provided by state, regional, or county entity*
 - HUD Point-in-time (PIT) counts
 - **HUD Annual Homelessness Assessment Report (AHAR)**
 - McKinney-Vento data **for all school districts that overlap with the local jurisdiction**
 - **For data reported at a larger geography than the local jurisdiction, they may determine proportionate need via population.**
- Percentage of Rent Burdened Households (furnished by Oregon Housing and Community Services)
- Housing by Tenure (owner vs renter)

** If RHNA or other mechanism provides such data or analysis.*

- Units that are in the development pipeline by housing type (part of HB 4006 produced and permitted reporting);
- The proportionate population not typically accounted for in an HNA unique to city circumstances (i.e. student populations, second homeowners)
- Redevelopment rates that may impact the provision of preserving existing affordable market-rate units.
- **Other data sources to refine housing need for those experiencing homelessness, including:**
 - **Data collected by Coordinated Care Organizations (CCOs)**
 - **Data collected by Community Action Agencies**
 - **Capacity of existing shelters**
 - **Vacancy rates**
 - **Change in property values or rent over time**
 - **Qualitative data that illustrate specific needs of the homeless population**
 - **Other local houseless population datasets**

Engagement

This section describes engagement strategies employed to better understand city housing needs, barriers to housing, and limitations of local housing providers. To accomplish this, cities will be tasked to report on which audience was engaged and why they are being engaged.

Engagement for a Housing Production Strategy may be conducted concurrent with other Housing Planning efforts within the jurisdiction, including Housing Needs Analyses, Consolidated Plans for CDBG Entitlement Communities, and public engagement for Severely Rent Burdened Communities.

Specifically, this section should include:

- **Summary of consumers of needed housing engaged during HNA** (i.e., local residents), how deeply city staff reached into and connected with under-represented communities and how the input from those communities translated into HPS actions; and
- **Summary of housing providers engaged during HPS development** (i.e., developers, social service providers) to better understand what providers require to build more of the needed housing and how that information translated into HPS actions;

This section should also include a discussion of how the city will utilize or alter actions to directly address issues or concerns raised throughout the engagement process, specifically, by answering the following questions:

- (a) **Who:** List consumers of needed housing and providers you are engaging with and why.
- (b) **What you heard:** What questions did you ask of each group (consumers of needed housing/housing producers)? What did they tell you? Report by stakeholder group.

The city may also engage in other community outreach activities to better understand housing needs of specific populations. Cities are encouraged to convene a wide variety of stakeholders as part of advisory committees.

Cities are also encouraged to structure engagement in a manner that builds community buy-in through early and meaningful opportunities to influence the strategies a city considers. If a strategy requires tax funding, cities are encouraged to engage prospective taxpayers to improve the likelihood of success for a given measure.

Some ways cities may engage stakeholders could include, but not be limited to the following methods: open houses, public forums, online tools, and remote meetings.

Jurisdictions are encouraged to consult or partner with organizations that provide services either directly or peripherally related to housing need, such as public housing agencies, school districts, and social service providers.

<p>(c) Influence: How did the information and experiences of marginalized communities/housing providers influence the HPS? List specific examples.</p> <p>(d) Evaluation: How will engagement processes improve going forward? Are there strategies stakeholders asked for, but could not be delivered? Why?</p>	
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Strategies to Meet Future Housing Need

This section will be comprised of a list of all the tools/policies/actions a city proposes to meet its Identified Housing Need. The tools/policies/actions that can be employed by cities can generally be categorized into seven categories:

- Zoning, Planning, and Code Changes
- Reduce Regulatory Impediments
- Financial Incentives
- Financial Resources (Local, State, Federal)
- Tax Exemption and Abatement
- Land, Acquisition and Partnerships
- Innovative Options

A city may employ any number of tools/actions/policies and is not required to employ a tool/action/policy from each or all of these seven categories. However, the strategies proposed by a city must collectively be the city’s best attempt to respond to the 20-year housing need identified within the HNA, as one of many parties responsible for housing production, including federal, state, regional and county governments; affordable housing providers; and developers.

<p><i>For each tool/policy/action a city proposes in this section, the city must include:</i></p> <ul style="list-style-type: none"> • Description of the strategy, • Timeline for adoption, • Timeline for implementation, and • Magnitude of impact, to the extent known: <ul style="list-style-type: none"> • Identified Housing Need being fulfilled (tenure and income); • Number of housing units that may be created, if possible; • An analysis of the income and demographic populations that will receive benefit and/or burden from the strategy, specifically: <ul style="list-style-type: none"> • Low-income communities 	<p><i>For the purposes of prioritization, cities are encouraged to organize tools/policies/actions in one or more of the following ways:</i></p> <ul style="list-style-type: none"> • Cost (low to high), • Timeframe (short-term to long-term), or • Identified Housing Need (most need to least need) • Necessity analysis: The degree to which implementing this tool/policy/action is required in order to produce the needed housing type by income level. <p>This section may also include a narrative explanation of why it is necessary to prioritize the HPS Report in</p>
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<ul style="list-style-type: none"> • Communities of color • Other communities that have historically been discriminated against, including protected classes and • Time frame over which the strategy is expected to impact needed housing <p>This section should also include a description of how proposed tools/policies/actions expand, alter, or interacts with other tools/policies/actions the city currently has in place or proposes to implement.</p>	<p>such a manner. The city can outline jurisdictional priorities and match tools/actions/policies to specific goals.</p> <p>A City should also consider programs or mechanisms to track the progress and effectiveness of efforts to encourage the development of needed housing. Examples of information a City could consider tracking include:</p> <ul style="list-style-type: none"> • Anticipated affordability of new dwelling units upon issuance of a building permit • Net unit production, including units demolished or converted to nonresidential use through redevelopment
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Achieving Fair and Equitable Housing Outcomes

This section will include a series of questions that jurisdictions will be asked to reflect on, with regards to equitable outcomes when it comes to housing production. In light of strategies chosen, these reflections will assist jurisdictions in framing their housing need, develop an appropriate engagement process going forward, and choose appropriate housing production strategies to address housing inequities. The questions are as follows:

- **Location/Transportation.** How is the city ensuring access to housing and transportation networks are made available to all residents, including protected classes identified in Federal and Oregon State Fair Housing Law, while achieving statewide climate goals of carbon reduction?
- **Fair Housing.** How is the city affirmatively furthering fair housing for all resident groups listed under the Federal and Oregon Fair Housing Laws? Affirmatively furthering fair housing means addressing:
 - Disproportionate housing needs
 - Patterns of integration and segregation
 - Racially or ethnically concentrated areas of poverty
 - Disparities in access to opportunity
- **Access to Opportunity.** How is the city facilitating equal access to opportunity for communities of color, low-income communities, and other communities that have historically been locked out of opportunities? Access to opportunity includes access to high-quality employment and business opportunities, schooling, community amenities and services, and a healthy and safe environment.
- **Homelessness/equitable distribution of services.** How is the city enabling the provision of housing options for people experiencing homelessness? Additionally, how is the city partnering with other organizations to promote services that are needed to create permanent supportive housing and other housing options for people experiencing homelessness?

- **Opportunities for affordable rental housing and homeownership.** How is your jurisdiction creating opportunities, **through production and connecting residents to housing**, for both affordable rental housing and wealth creation via homeownership, especially for communities that have been historically locked out of these opportunities?
- **Gentrification/Displacement/Housing Stability.** How is your jurisdiction increasing housing stability for residents and mitigating gentrification and displacement resulting from investment or redevelopment?

Conclusion

<p><i>This section will be a narrative illustrating next steps for jurisdictions and considerations for topics to reflect on for subsequent HPS Reports.</i></p> <ul style="list-style-type: none"> • In concluding the Housing Production Strategy Report, the city must consider the following: <ul style="list-style-type: none"> • Any opportunities, constraints, or negative externalities associated with adoption of the elements of proposed housing production strategies; • Actions necessary for the local government and other stakeholders to take in order to implement the proposed housing production strategy; and • Discussion of how the proposed actions, taken collectively, will increase housing options for population groups experiencing a current or projected disproportionate housing need. 	<p>The city may also consider conducting an Alternatives Analysis describing how the city came to propose a specific set of tools/actions/policies. This analysis can help cities make informed decisions on specific tools/actions/policies especially if there are intra-strategy options related to costs, regulatory standards, equity considerations, or other variables.</p>
<p>If this is the city’s first HPS Report, how will progress be measured going forward? If this is not the city’s first HPS Report, how have strategies documented in the most recent HPS been carried out? What were the results? What has worked? What hasn’t? Why or why not?</p>	<p>N/A</p>
<p>A Housing Production Strategy Report must include within its index a copy of the city’s most recently completed survey to meet the requirements of HB 4006 and a copy of the ORS 197.178 report, which shows all permits applied for and accepted within the year.</p>	<p>The city may also include any supporting documentation, research, or analysis that outlines the need for specific tools/actions/policies in the Report’s index.</p>

<p>If there is a housing need not being addressed, what is the need, why can the city not address this need, and what has been previously attempted in terms of tools/strategies/policies?</p>	<p>N/A</p>
<p>Reflection Questions for Each Jurisdiction. These are different from the aforementioned reflection questions, above, as they help inform the reasoning behind choosing housing production strategies.:</p> <ul style="list-style-type: none"> • How do the chosen housing production strategies help residents overcome discriminatory housing practices? • How do the chosen housing production strategies help residents overcome racial housing segregation? • How do the chosen strategies affirmatively further fair housing? 	

Question #1: The Housing Team, RAC, TAC, and LCDC have weighed heavily on the HPS Report structure the past several months. After reviewing the finalized HPS structure, are there any major edits that need to be made prior to finalization of rulewriting?

Question #2: Interest has been expressed to continue an oversight structure in the form of a quarterly advisory committee, which would further facilitate the implementation of HPS Reports as rules are institutionalized and cities are tasked to adhere to the above requirements. Are there any other structures that could be put into place going forward to ensure that implementation gaps are addressed in the process of HPS rollout?

HOUSING PRODUCTION STRATEGY TECHNICAL ADVISORY COMMITTEE



MEETING PACKET #7

TO: Housing Production Strategies Technical Advisory Committee Members

FROM: Ethan Stuckmayer, Senior Housing Planner; Samuel De Perio Garcia, Housing Planner

SUBJECT: Reporting, Review, and Enforcement of the Housing Production Strategy Program

Overview

The HPSTAC has finalized discussion on the specific requirements of the Housing Production Strategy Report, and is now finalizing the Reporting, Review, and Enforcement provisions of the Housing Production Strategy program. These components will state specifically what parameters cities must meet to show progress and sufficiency of HPS implementation, criteria by which DLCD will review, and enforcement measures DLCD and LCDC will take in the event of ongoing delinquency/insufficiency of HPS reporting and implementation.

We have included some discussion questions, which highlight key concepts for which the department seeks HPSTAC input during the August 6 meeting.

Reporting

At the last HPSTAC meeting on July 20, DLCD heard general consensus from the HPSTAC that HPS progress reporting for cities should be accomplished through a two-pronged approach – a number/data-focused annual report and a narrative mid-term reflection.

Annual reporting requirements will be accomplished through a process that expands upon the already-existing HB 4006 produced and permitted report. This report requires cities with populations greater than 10,000 to submit, by February 1 of each year, an Excel report to DLCD about the total number of housing units permitted and produced in the previous year. After tweaking of HB 4006 reporting for subsequent years to capture net increase/decrease of housing units, this information will be more helpful in helping understand both the production and removal of housing units over time. *Note: amendments to OAR 660-008 provided in this packet do not include discussion of HB 4006 reporting, as the requirements are found elsewhere in OAR and ORS.*

Mid-term reporting, will occur on a 3 or 4-year cycle, dependent on the already-established HNA update schedule. This will take the form of a narrative reflection. Cities will be asked to describe which tools/policies/actions they have adopted or implemented - or have plans to adopt or implement – since the adoption of their Housing Production Strategy Report. Cities should describe the circumstances that have prohibited, delayed, or otherwise impeded the implementation of any tools/policies/actions as originally planned in the Housing Production Strategy Report. Lastly, cities will be asked to respond to questions related to housing location, fair housing, and wealth outcomes for marginalized communities

through homeownership, housing options for residents experiencing homelessness, and efforts to combat gentrification in light of development pressures that may occur through housing production.

These questions are identified in the memo titled *Housing Production Strategy Report Structure*. They are as follows:

- **Location/Transportation.** How is the city ensuring access to housing and transportation networks are made available to all residents, including protected classes identified in Federal and Oregon State Fair Housing Law, while achieving statewide climate goals of carbon reduction?
- **Fair Housing.** How is the city affirmatively furthering fair housing for all resident groups listed under the Federal and Oregon Fair Housing Laws? Affirmatively furthering fair housing means addressing:
 - Disproportionate housing needs
 - Patterns of integration and segregation
 - Racially or ethnically concentrated areas of poverty
 - Disparities in access to opportunity
- **Access to Opportunity.** How is the city facilitating equal access to opportunity for communities of color, low-income communities, and other communities that have historically been locked out of opportunities? Access to opportunity includes access to high-quality employment and business opportunities, schooling, community amenities and services, and a healthy and safe environment.
- **Homelessness/equitable distribution of services.** How is the city enabling the provision of housing options for people experiencing homelessness? Additionally, how is the city partnering with other organizations to promote services that are needed to create permanent supportive housing and other housing options for people experiencing homelessness?
- **Opportunities for affordable rental housing and homeownership.** How is your jurisdiction creating opportunities, through production and connecting residents to housing, for both affordable rental housing and wealth creation via homeownership, especially for communities that have been historically locked out of these opportunities?
- **Gentrification/Displacement/Housing Stability.** How is your jurisdiction increasing housing stability for residents and mitigating gentrification and displacement resulting from investment or redevelopment?

Question #1: After reviewing all requirements of the annual and mid-cycle reporting structure for Housing Production Strategy Reports in the draft OARs, are there any major edits that need to be made prior to finalization?

Review of the Housing Production Strategy Report

Under Section 6 of HB 2003, the Land Conservation and Development Commission shall adopt criteria for reviewing and identifying cities that have not sufficiently achieved production of needed housing within their jurisdiction or have not implemented their housing production strategy. While it will be the responsibility of cities to report on their efforts to stimulate housing production in their communities, DLCDC staff will be tasked to both review reports and determine whether or not cities are making good-faith efforts to address housing needs of their communities.

As discussed previously, this is measured in the knowledge that cities do not build housing units, and instead rely on the private or non-profit development to do so. However, cities play a major role to help increase unit development through their HPS actions.

HB 2003 offers some guidance on which metrics may be included in the Land Conservation and Development Commission's review of HPS sufficiency:

- 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) Recent or frequent failure to address the metrics listed in a – e above, or
- g) Other attributes that the Commission considers relevant.

Likely, a combination of items A – F will be used by the Commission as the review criteria. Additionally, item G provides the Commission the opportunity to add other review criteria.

The Commission has already identified two additional attributes that will likely be part of the sufficiency outline in Section 6 of HB 2003:

1. The city's response to address the housing needs of those experiencing homelessness, and
2. Increased access to housing opportunity including the elimination of barriers to flexible, fair, and equitable housing options.

Question #2: After reviewing all criteria to measure sufficiency of HPS Reports and implementation progress here and in the draft OARs, are there any major edits you would like to identify and revise prior to finalization?

Enforcement

HB 2003 gives LCDC and DLCDC the authority to take enforcement actions upon jurisdictions that do not comply with the requirements of the HPS program. As discussed previously with the HPSTAC, enforcement actions will serve as a last resort mechanism to ensure cities are increasing the opportunity for housing production in their communities. This was generally agreed upon by the RAC and LCDC meeting on July 23, ensuring that DLCDC takes more of a supportive role rather than regulatory one, as cities begin participating in the HPS program.

As a result, enforcement actions are not likely to be tied to a city meeting specific unit production goals. Instead, LCDC and DLCD will create incentives for good faith efforts cities take to implement and adopt Housing Production Strategies. These could include, but are not limited to the following: educational opportunities to learn about fair housing best practices, financial support or technical assistance support, and peer support amongst other cities in the same region for information and resource exchange.

The later enforcement actions outline the consequences for noncompliance, possibly including a process by which the department withholds planning and technical assistance funds from jurisdictions who routinely fail to adopt Housing Production Strategy Reports.

As cities vary with budget and staff time, it is important to note that strategies a city focus on will also vary significantly, especially as local Councils may have competing priorities. With this in mind, DLCD staff continues to develop an enforcement process that propels cities to advance housing production without creating disparities between cities that do not have the resources to do so, even if they tried.

Feedback from LCDC at the July 23 meeting garnered positive support for the two-track approach to HPS compliance, each with varying tiers of enforcement. LCDC further asserted the need to provide more incentives for jurisdictions to ensure ongoing participation in the program, especially for smaller communities with limited staff capacity to create HPS reports.

The tiered approach below provides a series of escalating responses enforceable by DLCD/LCDC. One track would focus on the actual completion of an HNA and subsequent HPS according to the 6-8 year schedule required by law, while the other track would focus on enforcement related to adopting and implementing strategies identified in an HPS.

Each jurisdiction will begin at an Enforcement Tier that precedes Tier 1 – a tier of “good standing”. If cities are unable to meet standards listed, they will continue to move further down the chain, and be subject to enforcement measures mentioned for that tier. This begins with the provision of resources for jurisdictions with limited means and an opportunity to remedy noncompliance, then enhanced review with formal correction required (with clear actions and timelines defined), and finally enforcement via financial mechanisms and other consequences. They are outlined in greater detail below:

NOTE: Changes since last HPSTAC (7/20) meeting are shown in red

Enforcement	
Adoption of an HNA and HPS	Adoption and Implementation of Strategies Identified in an HPS
Tier 1: Assistance for jurisdictions with limited resources – Should a jurisdiction identify a deficiency of resources in advance of their deadline to develop and adopt a Housing Needs Analysis	Tier 1: Jurisdiction Remedy – In the event that a jurisdiction fails to adopt or implement a strategy intended to meet an identified housing need within the HPS by the date specified within the HPS, a

<p>and/or subsequent Housing Production Strategy, they may reach out to the Department for assistance. The Department may take actions to support the jurisdiction in fulfilling its obligation such as prioritizing Technical Assistance funding. If a jurisdiction determines that it is unable to complete the work by the deadline, they may work with the Department to formulate a timeline to complete HNA or HPS work.</p> <p>Tier 2: HNA/HPS Delinquency – Should a jurisdiction fail to meet the required date to complete and adopt a Housing Needs Analysis or subsequent Housing Production Strategy without an established timeline for completion formulated with the Department, the Department will establish a timeline for the jurisdiction, with subsequent enforcement actions outlined on deadlines.</p> <p>Tier 3: Enhanced Review with Formal Correction – Should LCDC determine that a Housing Production Strategy fail to meet criteria for compliance with House Bill 2001, the local jurisdiction will engage in enhanced review in which the Department establishes a timeline to remedy identified deficiencies. Submitted products may be formally corrected.</p> <p>Tier 4: Financial Enforcement – Should a local jurisdiction fail to remedy delinquency or failure to meet criteria to comply with HB 2003, LCDC may withhold financial resources, such as technical assistance, from the local jurisdiction.</p> <p>Tier 5: Enforcement Order – Should a jurisdiction maintain outstanding or continued delinquency or failure to meet criteria to comply with HB 2003, LCDC will act under ORS 197.319 to 197.335 to compel local jurisdiction compliance.</p>	<p>jurisdiction must notify the Department, including an explanation as to why the strategy was not implemented within the timeline specified within the housing production strategy.</p> <p>Tier 2: Required Remedy – Should a local jurisdiction fail to establish a time frame with the Department or develop an alternative strategy (or strategies) and timeline to address the identified need within the established time frame, the local jurisdiction will engage in enhanced review in which the Department establishes a timeline to remedy identified deficiencies. DLCD and the City may consider a specific and targeted technical assistance partnership to complete the necessary adoption or implementation.</p> <p>Tier 3: Enhanced Review with Formal Correction From there, the local jurisdiction may work with the Department to identify a strategy (or strategies) and timeline to address the identified need. This may include formulating an agreement with the Department, including a timeframe to remedy the issue. Additionally, the Department may assist compliance via technical assistance funding or direct support.</p> <p>Tier 4: Financial Enforcement – Should a local jurisdiction fail to develop a strategy within the time frame established by the Department, LCDC may withhold financial resources, such as technical assistance, from the local jurisdiction.</p> <p>Tier 5: Enforcement Order – Should a jurisdiction maintain outstanding or continued delinquency, LCDC will act under ORS 197.319 to 197.335 to compel local jurisdiction compliance.</p>
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Question #3: After reviewing all components of the two-tiered Enforcement structure and draft OARs by which jurisdictions will be held accountable, are there any major edits you would like to identify and revise prior to finalization?

OAR 660-008 Amendments Incorporating Housing Production Strategy Requirements

Updated: July 31, 2020

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

1. "Housing Production Strategy" means a single and specific tool, action, policy, or measure a city will be implementing to meet the housing needs described in an adopted Housing Needs Analysis. A housing production strategy is one component of a Housing Production Strategy Report.
2. "Housing providers" means developers, builders, service providers, and infrastructure bureaus providing materials and funding needed to build housing. Housing Providers may include non-profit organizations or public entities.
3. "Consumers of needed housing" means any person who will be inhabiting Needed Housing, as defined in ORS 197.303.
4. "Housing Production Strategy Report" means the report cities are required to adopt within one year of their deadline to complete an updated Housing Needs Analysis, pursuant to OAR 660-008-0050. The housing production strategy report must contain, the following five sections, as described in OAR 660-008-0050
 - a. Contextualized Housing Needs
 - b. Engagement
 - c. Strategies to Meet Future Housing Need
 - d. Achieving Fair and Equitable Housing Outcomes
 - e. Conclusion

660-008-0045 Housing Capacity Analysis Deadline

Metropolitan service districts and cities described in ORS 197.296 (2)(a)(B) and (10)(c)(B) shall demonstrate sufficient buildable lands as scheduled by the Commission.

1. The Department of Land Conservation and Development publishes the calendar of housing capacity analyses deadlines for cities identified under ORS 197.296 2(a) or 10(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 by ordinance by the local government. 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 by a city of a housing capacity analysis, the subsequent deadline for a 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 certified Population Estimate developed under ORS 195.033 and OAR 660-032-0020 and 0030 qualifies a previously exempt city, the city must comply with this section within two years of its qualification or the interval provided in Section 4, whichever is greater.

660-008-0050 Housing Production Strategy Report Structure

As provided in ORS 197.290 (2), a Housing Production Strategy Report must include a list of specific actions, including the adoption of measures and policies that the city shall undertake to promote development within the city to address a housing need identified under ORS 197.296 (6) 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. A contextualization of housing need – A Housing Production Strategy Report must incorporate and contextualize information from the most recent housing capacity analysis completed under ORS 197.296, to describe current and future housing needs in the context of population and market trends. At a minimum, this analysis must include:
 - a. Socio-economic and demographic trends of households living in existing needed housing;
 - A. 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; and
 - 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 the number of people or households experiencing homelessness. Estimates must include, as available, the following data sources:
 - A. An estimate of regional housing need for people experiencing homelessness provided by the state or a regional or county entity
 - B. The applicable HUD Point-in-Time (PIT) count conducted by the Continuum of Care that the city is located within.
 - C. The applicable HUD Annual Homelessness Assessment Report (AHAR)
 - D. McKinney-Vento data for all school districts that overlap with the local jurisdiction
 - f. Percentage of Rent Burdened Households, as provided in OAR 813-112-0020.
 - g. Housing tenure, including rental and owner households.
 - h. A city may use the following data sources to further contextualize housing need for the purposes of this section:
 - A. The percentage of housing stock that is market rate or subsidized affordable
 - B. Units that have been permitted but not yet produced
 - C. Population groups that are not typically accounted for in a housing capacity analysis, including but not limited to college/university students or second homeowners
 - D. Redevelopment rates that impact the preservation of existing affordable market-rate units
 - E. Other data sources 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
 - 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 housing producers were engaged, especially engagement of under-represented communities. Engagement for a Housing Production Strategy may be conducted concurrent with other Housing Planning efforts within the jurisdiction, including but not limited to housing capacity analyses, Consolidated Plans for CDBG Entitlement Communities, and public engagement for Severely Rent Burdened Communities. The narrative summary must include the following elements:
 - a. A list and description of who was engaged and why, including consumers and producers of needed housing.
 - b. The questions asked and feedback received from each stakeholder group.
 - c. A description detailing how the information from stakeholders influenced implementation of housing production strategies, 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 to implement towards addressing housing needs for the next 20-year planning period. The strategies proposed by a city must collectively address the next 20-year housing need identified within the most recent housing capacity analysis developed under ORS 197.296 and contextualized within the report. Strategies may be selected from the following categories:
- a. Zoning, Planning, and Code Changes
 - b. Reduce Regulatory Impediments
 - c. Financial Incentives
 - d. Financial Resources (Local, State, Federal)
 - e. Tax Exemption and Abatement
 - f. Land, Acquisition and Partnerships
 - g. Innovative Options
 - h. 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:
 - i. Identified Housing Need by tenure and income;
 - ii. An estimate of the number of housing units that may be created, if possible;
 - E. An analysis of the income and demographic populations that will receive benefit or burden from the strategy, including:
 - i. Low-income communities;
 - ii. Communities of color; and
 - iii. Other communities that have historically been discriminated against, including protected classes.
 - F. Time frame over which the strategy is expected to impact needed housing
 - i. 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.
4. Achieving Fair and Equitable Housing Outcomes – A Housing Production Strategy Report must include a narrative reflection summarizing how the selected housing production strategies, in combination with other city actions, will achieve equitable outcomes with regard to the following factors:
- a. Transportation - How the City is integrating statewide climate goals of carbon reduction with partnerships to ensure access to housing and transportation networks are available for all residents, including protected classes identified in Federal and Oregon State Fair Housing Law.
 - b. Fair Housing - How the City is affirmatively furthering fair housing for all resident groups listed under the Federal and Oregon Fair Housing Laws. Affirmatively furthering fair housing means addressing disproportionate housing needs, patterns of integration and segregation, racially or ethnically concentrated areas of poverty, disparities in access to opportunity;
 - c. Access to opportunity – How the city is facilitating equal access to opportunity for communities of color, low-income communities, and other communities that have historically been locked out of opportunities? Access to opportunity includes access to high-quality employment and business opportunities, schooling, community amenities and services, 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. Opportunities for affordable rental housing and homeownership – How the city is creating opportunities, through production and connecting residents to housing, for both affordable rental housing and wealth

- creation via homeownership, especially for communities that have been historically locked out of these opportunities; and
- f. Gentrification, displacement, and housing stability – How the city is increasing housing stability for residents and mitigating gentrification and displacement resulting from investment or redevelopment.
5. **Conclusion:** A Housing Production Strategy must include the following additional elements:
 - a. Any opportunities, constraints, or negative externalities associated with adoption of the elements of proposed housing production strategies;
 - b. Actions necessary for the local government and other stakeholders to take in order to implement the proposed housing production strategy; and
 - c. Discussion of how the proposed actions, taken collectively, will increase housing options for underserved populations historically subject to disproportionate housing need.
 - g. If the Housing Production Strategy reports is the first produced under this division, it must include a description detailing how strategy implementation and progress will be measured;
 - h. Subsequent Housing Production Strategy reports must include a summary of strategies that have been 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 HB 4006 and a copy of the ORS 197.178 report, which shows all permits applied for and accepted within the year;
 - j. A summary of housing needs 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 under this division, a city must submit the adopted strategy or amended strategy to the Department of Land Conservation and Development.
2. The submission under subsection (1) of this section must include copies of:
 - a. The signed decision adopting the Housing Production Strategy Report or amended Report;
 - b. The text of the Housing Production Strategy Report clearly indicating any amendments to the most recent strategy submitted under this section;
 - c. A brief narrative summary of the Housing Production Strategy Report; and
 - d. The information reviewed and considered under subsection (3).
3. The Department of Land Conservation and Development shall review the accuracy and sufficiency of the Housing Production Strategy Report based upon the following criteria:
 - 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 of frequent failure to address the metrics listed in the criteria in this subsection.
4. 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 under subsection (3); or

- c. Remand the Housing Production Strategy Report for further modification as identified by the Department of Land Conservation and Development.
5. A determination by the Department of Land Conservation and Development under subsection (4) is not a land use decision and is final and not subject to appeal.
6. One 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.
7. 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)
8. Notices given under subsections (6) and (7) 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 not further right of appeal.

660-008-0060 Reporting on Housing Production Strategy Implementation

1. Cities required to adopt a Housing Production Strategy under OAR 660-008-0050, must submit a narrative report to the department for review and comment:
 - a. for cities that are within a metropolitan service district boundary, no later than December 31st three years after the Housing Production Strategy Report adoption; or
 - b. for cities that are not within a metropolitan service district boundary, no later than December 31st four years after the Housing Production Strategy Report adoption.
2. The narrative report a city submits per subsection (1), must include 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 explain the circumstances or factors that posed a barrier to implementation and the city must provide a plan for addressing the identified need that the strategy addressed.
3. The narrative report a city submits per subsection (1), must include a narrative reflection of the actions taken in response to the questions identified in OAR 660-008-0070(4).
4. Upon submittal of the report developed under this section, the Department will review the narrative required in subsection 1 for accuracy and sufficiency based upon the criteria in OAR 660-008-0055(3).
5. Should the Department find the 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 660-008-0065.

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

The Department of Land Conservation and Development will review a city's housing capacity analysis and Housing Production Strategy Report for compliance with provisions in ORS 197.296 and 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 circumstances outside of the city's control will impede a city's ability to adopt a housing capacity analysis or Housing Production Strategy Report by the prescribed deadline, the city should notify the Department of the expected delinquency with an identified time line for adoption. 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 the city has not notified the department of an expected delinquency and the city does not submit a Housing Production Strategy Report for department review by the deadline provided in OAR 660-008-0050, the department may seek mitigation of the delinquency through an Intergovernmental Agreement outlining specific compliance actions on behalf of the city. 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 consistently or routinely does not adopt a housing capacity analysis or Housing Production Strategy Report as provided in this division, the department may petition the Land Conservation and Development Commission to act under ORS197.319 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 Need Identified in a Housing Production Strategy Report

The Department of Land Conservation and Development will 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. If the city does not sufficiently meet the criteria for review and submittal provided in OAR 660-008-0055, the Department may engage with the city in one or more of the following actions:

1. If circumstances outside of the city's control will impede a city's ability to implement one or more Strategies to Meet Future Housing in coherence with the time line adopted in the city's Housing Production Strategy Report, the city should notify the Department of the expected delinquency. The notice should identify specific actions or a combination of actions that the city will take to address the delinquency. This may include, but is not required to include, amendments to the Housing Production Strategy Report such that the city identifies a different action or combination of actions to address the specific housing need left unmet due to an impediment. 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 the city has identified a plan to mitigate a delinquency either through notifying the department as provided in subsection (1) or through the narrative report required in OAR 660-008-0060, and the city, at the discretion of the department, does not take sufficient action to mitigate the identified delinquency, the department may seek mitigation through an Intergovernmental Agreement outlining specific compliance actions on behalf of the city. 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 ORS197.319 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.

Housing Production Strategy Technical Advisory Committee Meeting #7
 August 6, 2020; 9:00 am – 12:00 pm

Department of Land Conservation and Development (DLCD)
 Zoom Virtual Meeting



Public Comment Summary July 15 – July 31, 2020

Date	Commenter	Commenter Type	Comments Summary	Comment Type
7/21/2020	Brian Martin	RAC	A message outlining draft language for a potential approach to define "in areas". The approach includes a provision requiring all middle housing in sub-areas of the jurisdiction, a provision requiring allowance of middle housing on 50% of lots, and a requirement to allow middle housing on lots where the median real market property value per lot is greater than 125% of the median.	Email
7/27/2020	Dan Pauly	Staff	A letter from the planning manager at Wilsonville providing suggestions for the Department's approach to defining "in areas". The letter notes that for new communities, such as Wilsonville's Villebois community, providing flexibility for a local jurisdiction to incorporate middle housing types can result in a greater provision of middle housing options than the presumptive approach alone and allows cities to better plan for infrastructure and market conditions.	Letter

From: [Stuckmayer, Ethan](#)
To: [-Housing Team](#)
Subject: FW: HB2001 inclusive and equitable expectations
Date: Tuesday, July 21, 2020 4:21:12 PM

Hello,

Additional feedback on the “in areas” approach from LOC and Brian Martin.

We can discuss this more during our “in areas” meeting tomorrow.



Ethan Stuckmayer

Senior Planner of Housing Programs | Community Services Division

Pronouns: he/him/his

Oregon Department of Land Conservation and Development

635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540

Direct: 503-302-0937 | Main: 503-373-0050

ethan.stuckmayer@state.or.us | www.oregon.gov/LCD

From: Ariel Nelson [mailto:anelson@orcities.org]

Sent: Tuesday, July 21, 2020 3:48 PM

To: Stuckmayer, Ethan <estuckmayer@dlcd.state.or.us>; Howard, Gordon <goward@dlcd.state.or.us>; Young, Kevin <kyoung@dlcd.state.or.us>; Mason, Palmer <pmason@dlcd.state.or.us>

Cc: Brian Martin <bmartin@beavertonoregon.gov>

Subject: FW: HB2001 inclusive and equitable expectations

Hi Ethan and DLCD Team,

I’m emailing to share the concept that Brian Martin and others have been discussing as one alternative approach to the “in areas” portion of the rules. They wanted to provide a specific example to demonstrate cities and counties’ intent to support implementation of HB 2001 and are eager to discuss potential options as well as any needed sideboards to ensure jurisdictions meet the intent of HB 2001. Brian is copied here and available to discuss in more detail. Our hope is that DLCD is open to meeting with cities and counties to refine an alternate approach that can be presented and discussed at the next TAC meeting. We know you have a lot on your plate and are happy to help convene additional meetings before the TAC or assist however would be helpful to your process.

Thank you,
Ariel

Ariel Nelson, Lobbyist

cell: 541-646-4180

1201 Court St. NE, Suite 200, Salem, OR 97301-4194

From: Brian Martin <bmartin@beavertonoregon.gov>
Sent: Friday, July 17, 2020 3:50 PM
To: RUST Mark <mrust@springfield-or.gov>; Heather Richards <Heather.Richards@mcminnvilleoregon.gov>; Colin Cooper <Colin.Cooper@hillsboro-oregon.gov>; mfritzie@clackamas.us; Bateschell, Miranda <bateschell@ci.wilsonville.or.us>; Pauly, Daniel <pauly@ci.wilsonville.or.us>; Laura Kelly <Laura.Kelly@hillsboro-oregon.gov>; Anna Slatinsky <aslatinsky@beavertonoregon.gov>; Rob Zoeller <rzoeller@beavertonoregon.gov>; Eunice Kim <EKim@cityofsalem.net>
Cc: Ariel Nelson <anelson@orcities.org>; 'Theresa Cherniak' <Theresa_Cherniak@co.washington.or.us>
Subject: RE: HB2001 inclusive and equitable expectations

Ariel:

The League of Oregon Cities letter to the Department of Land Conversation and Development asked for additional flexibility for jurisdictions writing their own development codes to comply with HB2001.

The Rulemaking Advisory Committee and the League have both expressed the importance of promoting racial equity and reversing segregation and exclusivity produced in part by past land use regulations.

The current DLCDC approach as described in the July 14 packet provides a one-size-fits-all approach to implementing middle housing, uncertain outcomes as applied in different jurisdictions, and no language that requires cities to meet goals and make findings regarding reducing segregation and ensuring middle housing types are allowed within wealthy neighborhoods that currently only allow single-family detached dwellings. (DLCDC has expressed, of course, that they are working on other approaches and things are evolving.)

Given that, it is important for city and county planners to contribute ideas that DLCDC could incorporate into administrative rules that would provide expectations and accountability for cities. Ideally, the provisions also would provide enough specificity so jurisdictions would know how to meet the expectations and DLCDC review could ensure accountability in an efficient manner.

The “proof of concept” shown below (No. 3 highlighted in gray) provides one way expectations and accountability could be added to the administrative rules. (Note, these revisions are shown as an addition to the Medium Cities administrative rules. The “Applicability” section mentioned would be another part of the administrative rules that basically defines to which lots in the jurisdiction the rules would apply. See the Medium Cities administrative rules for context.)

I would like to thank county and city representatives that reviewed and commented on this proof of concept, but any errors are mine.

660-XXX-XXXX Implementation of Middle Housing Ordinances

1. Before a local government amends an acknowledged comprehensive plan or a land use regulation to allow Middle Housing, the local government must submit the proposed change to the Department for review and comment pursuant to OAR chapter 660, division 18.
2. In adopting or amending regulations or amending a comprehensive plan to allow Middle Housing, a local government must include findings demonstrating consideration, as part of the post-acknowledgement plan amendment process, of methods to increase the affordability of Middle Housing through ordinances or policies that include but are not limited to:
 - a. Waiving or deferring system development charges;
 - b. Adopting or amending criteria for property tax exemptions under ORS 307.515 to ORS 307.523, ORS 307.540 to ORS 307.548 or ORS 307.651 to ORS 307.687 or property tax freezes under ORS 308.450 to ORS 308.481; and
 - c. Assessing a construction tax under ORS 320.192 and ORS 320.195.
3. In adopting a comprehensive plan or land use regulations to allow Middle Housing, a local government must include findings demonstrating that on land deemed applicable in 660-XXX-00XX Applicability:
 - a. The regulations will allow all middle housing types within a jurisdiction and within any sub-areas of that jurisdiction used by the local government to implement Middle Housing; and
 - b. The regulations will allow at least one non-duplex middle housing type on at least 50 percent of lots within the jurisdiction and within all sub-areas established by the local government; and
 - c. The regulations will allow at least one non-duplex middle housing type on 50 percent of all lots within each Census block group where the median real market property value per lot (including both land and improvement value from assessor data) on land deemed applicable in 660-046-00XX Applicability is greater than 125 percent of the median real market property value per lot (including both land and improvement value from assessor data) within a jurisdiction for all lots on land deemed applicable in 660-046-00XX Applicability.
4. When a local government amends its comprehensive plan or land use regulations to allow Middle Housing, the local government is not required to consider whether the amendments significantly affect an existing or planned transportation facility.

The explanatory section below is intended for city and county representatives to provide context for why the proof of concept says what it does, but feel free to share any relevant points with DLCD that you think will enhance understanding.

Some clarifications and explanation:

- The language and any numerical standards above are provided to show a proof of concept and could be improved with further analysis.
- The language assumes duplexes are allowed on all applicable lots and that that language will be elsewhere in the administrative rules.
- In 3.a., it mentions the “within a jurisdiction and within any sub-areas of that jurisdiction established by the local government” to indicate that it is OK for jurisdictions to have the

same rules jurisdiction-wide or to divide up the jurisdiction into geographic areas, such as zones, neighborhoods, residential pattern areas, etc. This sets up the idea that if you divide it up, one needs to meet the 50 percent thresholds within every area in compliance with 3.b. (Yes, sub-areas could mean “gerrymandering,” but because one has to meet the 50 percent standard in each area, gerrymandering doesn’t allow evasion.)

- Regarding using property values, it is possible undeveloped and undevelopable land such as parks, schools, farms and natural areas could skew these numbers, but I think using the median value reduces the risk of that.
- In a sense, “In Areas” is already defined once you consider the likely administrative rules regarding applicability, especially if DLCD includes its “whittle away” approach in the Applicability section to allow jurisdictions to identify areas “not suitable.” Basically, the universe is lots zoned for residential use minus exclusions. I assume that jurisdictions can regulate Middle Housing “citywide” or create sub-areas. See the Medium Cities administrative rules, which will be identical or nearly so for Large and Metro jurisdictions.
 - “Zoned for residential use” means a zoning district in which residential dwellings are the primary use and which implements a residential comprehensive plan map designation.
 - The Medium Cities administrative rules provide exclusions for goal-protected areas, “land not zoned for residential use,” and other things.
- The census block groups will change over time, as will some city boundaries. Does this need to specify how it is handled the second, third and fourth time a jurisdiction changes its regulations? Or should jurisdictions meet it once and then only have to meet it again if their regulations would reduce the number of lots middle housing would be allowed on?

Although additional discussion with city and county representatives would be desirable, I understand providing ideas to assist DLCD is relatively urgent given the rulemaking timelines. I do invite additional comments and questions about the proof of concept.

Best,

Brian

Brian Martin, AICP, LEED AP

Pronouns: he/him/his

Long Range Planning Manager | Community Development

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COVID-19 Update: Please note: **I am working remotely at this time.** Response times may be longer than normal as we adapt to remote work.



July 27, 2020

Via email

Ethan Stuckmayer
Senior Planner of Housing Programs
DLCD

Dear Mr. Stuckmayer:

The City of Wilsonville continues to follow the middle housing rulemaking process closely and desires to share the following specifics regarding the important discussion and considerations pertaining to "areas zoned."

At this point in the process and under our current understanding, the City does not have issue with the presumptive approach when applied to most areas of existing development. However, like several other jurisdictions, we feel situations exist where the presumptive approach is not the most effective approach in bringing about the best outcomes for middle housing, particularly in the case of new urban areas that are key to middle housing production.

In a previous letter, Wilsonville highlighted how the award-winning Villebois community could likely not be built pursuant to the current iteration of the presumptive approach. As further explained in the two next paragraphs, this is primarily due to the need for precise infrastructure planning and a developer preference to build single-family houses. Villebois is a master planned residential area with over 2,600 units that includes 8 different housing types that are not detached single-family, including carriage homes, fourplexes, town houses including many 5-6 unit buildings, apartment and condominium multi-family buildings, and integrated mental health housing (together totaling over 1400 units or just over half of total units). The housing forms a transect of density and height thoughtfully planned around an integrated parks system and village center.

Infrastructure financing and construction is complicated in these new urban areas such as Villebois as costs are significantly higher per unit relative to older development. It is essential the infrastructure strikes a delicate and precise balance between adequately serving development and being cost effective by not being overbuilt. The more certainty of eventual development, the better ability to plan infrastructure and keep the costs down to support affordability. In Villebois, if infrastructure had to be planned based on an unknown number of units in certain areas, it would have increased costs and fees charged to each unit.

Also, in Villebois the City faced consistent pressure to allow single-family homes in place of planned middle housing. In pressing the City to allow more single-family homes, developers often cited the ability to finance as well as profit margins to make it worth the investment. Other decision factors leading developers to favor single-family development included the developers and the contractors they had relationships with being most familiar with single-family development, and single-family development being the business model that they had always had. Having a rigid requirement for middle housing in certain locations in the legislative master plan was key to pressing back on developers preference and seeing it get built.

Under the presumptive approach a jurisdiction could still require only middle housing in certain areas while allowing middle housing and single-family in others. However, local political pressure would tend to push against requiring middle housing in certain locations since it is otherwise allowed everywhere. If middle housing is not required in certain locations and the developer that controls the land has a preference and/or business model for single-family development than there is not much the jurisdiction can do to ensure middle housing is built. The uncertainty for infrastructure and related cost increase would also still exist for the areas where the number of units is uncertain.

The Villebois example shows that a diversity of housing types can be developed at a variety of price points without a uniform lot by lot presumption. Using characteristics defined at a lot level rather than at a neighborhood level removes local flexibility and limits the ability to best plan cost-effective infrastructure and ensure development produces middle housing. There has been criticism of the word flexibility in the rulemaking discourse. Wilsonville is not asking for flexibility in outcomes, but rather flexibility in methodology to better bring the desired production of middle housing. Middle housing production in these new urban areas is key to the state's production of middle housing options, and special care needs to be taken for their unique circumstances.

Another specific example where the same concerns about the presumptive approach exists is the upcoming master planning of the area known as Frog Pond East and South, added to the Metro Urban Growth Boundary in 2018. City staff has real concerns that a lot by lot presumptive approach can prevent good planning related to infrastructure design and assurance of middle housing production. A condition of the UGB expansion reads, *"cities shall allow, at a minimum, single family attached housing, including townhomes, duplexes, triplexes, and fourplexes, in all zones that permit single family housing in the expansion areas."*

The contemplated method to meet or exceed this condition is not a presumptive lot by lot approach but rather a thoughtful approach, similar to Villebois, of considering a number of factors in determining where to place different types of housing. Factors to be weighed include access to commercial services and parks, ease of transportation access, ability to provide utilities at reasonable costs, etc. Wilsonville plans on meeting or exceeding all regional and state requirements for middle housing in Frog Pond East and South, but hopes for rules that focus on the outcomes rather than the method, maintaining maximum flexibility for the methods to produce the best neighborhoods. Wilsonville expects the approach it is

contemplating using to outperform a presumptive approach in both assuring cost-effective infrastructure and production of middle housing. The infrastructure cost challenges are even greater for Frog Pond than Villebois and staff has not seen a significant departure from developer preference to build single-family.

While not applicable to any current or contemplated projects in Wilsonville, the lot by lot presumptive method or approach could also prove difficult for comprehensive planning for redevelopment of existing urban areas for similar infrastructure planning and developer preference reasons.

Wilsonville commends DLCD staff for continuing to explore a performance-based compliance approach allowing flexibility of method. This flexibility of method absolutely needs to be allowed for certain circumstances such as planning new urban areas, even if the presumptive approach is used for minimum compliance in developed residential areas.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Pauly", enclosed within an oval-shaped scribble.

Daniel Pauly, AICP
Planning Manager
City of Wilsonville