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CHAPTER 660
LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

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FILING CAPTION: Amendments to OAR chapter 660, division 8 to incorporate the Oregon Housing Needs Analysis Program

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RULES:

660-008-0000, 660-008-0005, 660-008-0010, 660-008-0015, 660-008-0020, 660-008-0025, 660-008-0030, 660-008-0035, 660-008-0040, 660-008-0045, 660-008-0050, 660-008-0055, 660-008-0060, 660-008-0065, 660-008-0070, 660-008-0075, 660-008-0080, 660-008-0110, 660-008-0120, 660-008-0125, 660-008-0200, 660-008-0210, 660-008-0215, 660-008-0230, 660-008-0240, 660-008-0300, 660-008-0310, 660-008-0315, 660-008-0320, 660-008-0325, 660-008-0330, 660-008-0335

AMEND: 660-008-0000

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: This rule describes the intent and purpose of OAR 660-008-0000 to OAR 660-008-0335. The purpose of this division is to ensure there are enough safe, accessible and affordable housing units available and to use land efficiently within urban growth areas. It aims to make the development process more predictable and to create a system to evaluate and improve housing production, affordability, and choice.

CHANGES TO RULE:

660-008-0000

Purpose ¶

(1) The purpose of this division is to ensure opportunity for and promote the provision of adequate numbers of needed housing units, the efficient use of buildable land within urban growth boundaries, ~~and to across all communities in the state,~~ provide greater certainty in the development process so as to reduce housing costs. ~~This division is intended to provide standards for compliance with Goal 10 "Housing" and to implement ORS 197.303 through, and to provide a framework for evaluation and progress on housing production, affordability, and choice. Additionally, this division aims to promote safe, accessible, and affordable housing options for all Oregonians in their communities of choice, in alignment with the Affirmatively Furthering Fair Housing mandate. This division emphasizes fair housing outcomes, environmental justice, climate mitigation and resilience, and access to opportunity, following the principles of transparency, equitable engagement, and sustainability as provided in ORS 197A.025. This division provides standards for compliance with Goal 10 "Housing" and to implement ORS chapter 197A, ORS 184.453, and ORS 184.455, which include statewide allocation of housing need under the~~

Oregon Housing Needs Analysis. This division also operationalizes the Housing Acceleration program of the Oregon Housing Needs Analysis as provided in ORS 197A.1307.

(2) OAR chapter 660, division 7, Metropolitan Housing, is intended to complement and be consistent with OAR chapter 660, division 8 and Statewide Planning Goal 10 - Housing (OAR 660-015-0000(10)). Should differences in interpretation between division 8 and division 7 arise, the provisions of division 7 shall prevail for cities and counties within the Metro urban growth boundary.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ~~ORS 197.29475 - 197.314, 197.47493,~~ ORS 197A.015 - 197A.4970

AMEND: 660-008-0005

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: The definitions rule provides clear and precise meanings for key terms used throughout Division 8. The rule includes terms and phrases that may a) have a special meaning in rule, b) have a statutory definition, or c) reflect an implementation requirement.

CHANGES TO RULE:

660-008-0005

Definitions ¶¶

For the purpose of this division, the definitions in ORS ~~197.015, 197.295, 184.453, 184.455, 197.015, 197.660, 197A.015, 197A.018, 197A.210, 197A.230, 197A.300, 197A.348, and 197.303A.420~~ shall apply, unless the context requires otherwise. In addition, the following definitions shall apply:¶¶

(1) ~~"Attached Single Family Housing" means common wall dwellings or rowhouses where each dwelling unit occupies a seccessible"~~ means a unit that is designed, constructed, or altered in conformance with/Uniform Federal Accessibility Standards as implemented by the 2010 Americans with Disabilities Act Standards for Accessible Design or the American National Standards Institute (ANSI) Type A Unit standard adopted by the state building code as defined under ORS 455.010(9)./ ¶¶

(2) "Action" means a specific policy, code, program, investment, administrative measure, advocacy effort, or other tool included in a housing production strategy in alignment with ORS 197A.100(3) and (4), which commits to implementation.¶¶

(a) An action may include exploratory work as an initial critical step in order to refine and implement an action.¶¶

(b) An action may identify an alternate action that meets the same housing need and is of commensurate magnitude of impact as the primary action. A city may pursue an alternate action in lieu of the primary action in the event exploratory work or other circumstances suggest the primary action is not feasible. Compliance with the action implementation year as identified according to OAR 660-008-0200(2)(d) may be met by implementation of either the primary or the alternate action.¶¶

(c) An action may include substantial expansion of existing programming that has proven to meet the city's needed housing types, character-~~lot~~.¶¶

~~(2)ristics, or locations or remedy or mitigate fair housing issues.¶¶~~

(3) "Adaptable" means a unit that is designed, constructed, or altered in conformance with/the ANSI Type B Unit standard adopted by the state building code as defined under ORS 455.010(9)./¶¶

(4) "Affirmatively furthering fair housing" has the meaning provided in ORS 197A.100(9).¶¶

(5) "Allocated housing need" has the meaning provided in ORS 197A.015(1).¶¶

(6) "Buildable Land" means residentially designated land within the urban growth boundary, including both vacant and developed land likely to be redeveloped, that is suitable, available and necessary for residential uses. Publicly owned land is generally not considered available for residential uses. Land is generally considered "suitable and available" unless it:¶¶

(a) Is severely constrained by natural hazards as determined under Statewide Planning Goal 7;¶¶

(b) Is subject to natural resource protection measures determined under Statewide Planning Goals 5, 6, 15, 16, 17 or 18;¶¶

(c) Has slopes of 25 percent or greater;¶¶

(d) Is within the 100-year flood plain; or¶¶

(e) Cannot be provided with public facilities.¶¶

~~(3) "Consumers of Needed Housing" means any persons who inhabit or are anticipated to inhabit Needed Housing.¶¶~~

(4) ~~"Detached Single Family Housing" means a housing unit that is free standing and separate from other housing units.~~ characteristics" means the attributes or features of residential units that describe their physical, structural, functional, ownership and tenure aspects, or any combination thereof. Characteristics include at minimum but are not limited to:¶¶

(a) Interior and exterior features to meet accessibility needs for all ages and disabilities including mobility, auditory, visual, mental and behavioral, and other disabilities and age-related needs like caregiving with emphasis on the needs of older adults;¶¶

(b) Number of bedrooms and bathrooms;¶¶

(c) Livability of layouts including eating, sleeping, bathing, and cleaning on one level with a zero-step entrance;¶¶

(d) Number of complete living spaces within the unit or with adjacent units to support multi-generational living;¶¶

(e) Construction type including site-framed and prefabricated;¶¶

- (f) Culturally relevant features like multiple kitchens and interior and exterior layouts with accommodating gathering spaces;¶
- (g) Affordability, including but not limited to government assisted housing;¶
- (h) Tenure type;¶
- (5i) "Housing Capacity Analysis" means a document, incorporated into a city's comprehensive plan by ordinance, which complies with the provisions of ORS 197.296. A Housing Capacity Analysis is an assessment of hClimate adaptation and mitigation features including energy efficiency building science, water conservation in appliances and site design, stormwater management, and ventilation and indoor air quality; ¶
- (j) Trauma-informed features and design including the built environment and operational plans and practices; and¶
- (k) Co-located services with housing, including but not limited to permanent supportive housing (PSH), assisted living housing, skilled nursing housing, and adult foster homes.¶
- (8) "City" has the meaning provided in ORS 197A.015(3).¶
- (9) "Community Action Partnership of Oregon" has the meaning provided in ORS 456.515(2).¶
- (10) "Community members of needed housing" means any individuals who inhabit or are anticipated to inhabit needed housing.¶
- (11) "Continuum of Care" has the meaning provided in OAR 813-385-0010(1).¶
- (12) "Coordinated Care Organization" has the meaning provided in ORS 414.025(8). ¶
- (13) "Communities of color" means populations that have been historically marginalized, underrepresented, or subjected to systemic inequities based on race, color, or ethnicity, including Hispanic, Latina/o/x, Asian, Arabic or North African, Middle Eastern, Pacific Islander, American Indians, Alaska Natives, Native Hawaiians or other Pacific Islanders, and mixed-race or mixed-ethnicity populations.¶
- (14) "Contextualized Housing nNeed and capacity that includes the inventory, determination, and analysis required under" means the deliverable associated with complying with OAR 660-008-0075 and which, through the framework of Affirmatively Furthering Fair Housing, identifies the needed housing types, characteristics, and locations in a city that will be planned for throughout Goal 10 work.¶
- (15) "Development-ready lands" has the meaning provided in ORS 197.296(3A.015(4).¶
- (16) "Housing Needs Projection" refers to a local determination, justified in the plan, of the mix of housing types, amounts and densities that will be:¶
- (a) Commensurate with the financial capabilities of present and future area residents of all income levels during the planning period;¶
- Environmental justice" has the meaning provided in ORS 182.535(3).¶
- (17) "Exploratory work" means studies, research, and other planning analyses intended to inform a city's housing production strategy planning work but which are noncommittal in nature and do not on their own meet the definition of an action. Exploratory work may be a subtask of an action to further refine an action. Exploratory work may be included in an HPS and planned independently of a specific action, such as to inform future HPSs, however, the department will not consider that work to function as an action that meets housing need in the current HPS cycle.¶
- (18) "Fair housing choice" means individuals and households having the information, opportunity, and options to live where they choose, including in areas with access to opportunity and in integrated areas, without unlawful discrimination and other barriers related to protected classes, named communities in needed housing as provided in ORS 197A.018, and tribal communities. Fair housing choice encompasses:¶
- (a) Actual choice, which means the existence of realistic housing options - options that are affordable, attainable, accessible, and otherwise meet the needs of the household in the housing types, characteristics, and locations of their choice;¶
- (b) Protected choice, which means housing that can be accessed without discrimination; and ¶
- (c) Enabled choice, which means realistic access to sufficient information, services, and other resources regarding the housing types, characteristics, and locations available so that any choice is informed; and¶
- (bd) Consistent with any adopted regional housing standards, stFor individuals with disabilities, fair housing choice includes a realistic opportunity to obtain and maintain housing with accessibility features meeting the individual's disability-related needs, housing provided in the most integrated statutes and Commission administrative rules; and¶
- (e) Consistent with Goal 14 requirementetting appropriate to an individual's needs, and housing where community assets are accessible to individuals with disabilities, including voluntary disability-related services that an individual needs to live in such housing.¶
- (19) "Fair housing issue" means a condition in a city that restricts fair housing choice or access to opportunity, results in inequitable housing outcomes, or any combination thereof and may be indication of current discriminatory actions.¶
- (720) "Housing Production Strategy" means a specific tool, action, policy, or measure a city will implement to meetAcceleration Agreement" means a document that complies with provisions of ORS 197A.130(6) to (8).¶

(21) "Housing Capacity Analysis (HCA)" means a document, incorporated into a city's comprehensive plan by ordinance, which complies with the provisions of ORS 197A.270, 197A.280, 197A.335, and 197A.350. A Housing Capacity Analysis is an assessment of housing need and capacity that includes the inventory, determination, and analysis required under ORS 197A.270(3) to (4), and 197A.350(3).¶

(22) "Housing equity indicators" means the information annually produced by the Housing and Community Services Department under ORS 456.602.¶

(23) "Housing Production Strategy (HPS)" has the meaning provided in ORS 197A.015(7).¶

(24) "Housing production dashboard" means the information annually produced by the Housing and Community Services Department under ORS 456.601.¶

(25) "Housing Production Strategy Report" means the report cities must adopt within one year of their deadline to complete an updated Housing Capacity Analysis.¶

(26) "Integration" means a condition, within a specific geographic area of analysis, in which there is not a high concentration of individuals of a particular protected class, named community in needed housing as provided in ORS 184.455.¶

(27) "Location" means a specific geographic area or series of areas within a city's boundaries or approved expansion areas. Locations can significantly impact equity, quality of living, and access to opportunity. Locations include at a minimum but are not limited to areas with proximity to:¶
(a) Community assets, including but not limited to:¶
(A) Key destinations as defined by OAR 660-012-0360(2); ¶
(B) Areas with multimodal connectivity infrastructure, including the availability of road networks, public transit and paratransit options, bike lanes, and pedestrian pathways; and¶
(C) Areas with community based supportive services.¶
(b) Harms, including but not limited to:¶
(A) Environmental conditions that may lead to harm such as areas prone to natural hazards, industrial uses, and highways and freeways; and¶
(B) Areas that are segregated by race and income.¶

(28) "Manufactured dwelling park" has the meaning provided in ORS 446.003(20).¶

(29) "Middle housing" has the meaning provided in ORS 197A.420(1)(c)(A) to (E).¶

(30) "Midpoint Report" means a report that a city submits to the department half-way through a housing production strategy cycle pursuant to OAR 660-008-005230.¶

(31) "Multiple-Family-unit Housing" means attached housing developed with five units or more where each dwelling unit is not located on a separate lot and is not Middle Housing.¶

(32) "Needed Housing" means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges has the meaning provided in ORS 197A.018.¶

(33) "Oregon Housing Needs Analysis (OHNA)" has the meaning provided in ORS 184.451.¶

(34) "Past discriminatory actions or practices related to land and housing access" means policies, programs, and other practices which oppressed and discriminated against protected classes and named communities in needed housing as provided in ORS 197A.018 with particular focus on communities of color, low-income communities, individuals with disabilities, and tribal communities, and rent levels, including which are particularly oriented to place, belonging, stability, housing, wealth-building, at least the following housing types:¶

(a) Attached and the lands themselves that occurred in the city and region. This includes but is not limited to:¶

(a) The historical and ongoing actions affecting the indigenous stewards and detached single-family housing residents of the lands, including land and multiple-family housing for both owner and renter occupancy;¶

(b) Government-assisted housing;¶

(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;¶

(d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and¶

(e) Housing seizure, massacre, termination, attempted erasure, and displacement; the geographic locations of land seizure and displacement including reservations and treaty lands;¶

(b) The imposition of the ownership model on the land; the Donation Land Act and the associated land grants made exclusively to white settlers in the mid-nineteenth century; laws illegalizing ownership of land for particular communities;¶

(c) Land and housing access restrictions like sundown laws and their geographic boundaries; segregated schools,¶

(d) The historical and ongoing actions affecting the indigenous stewards and detached single-family housing residents of the lands, including land and multiple-family housing for both owner and renter occupancy;¶

(e) Government-assisted housing;¶

(f) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;¶

(g) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and¶

(h) Housing seizure, massacre, termination, attempted erasure, and displacement; the geographic locations of land seizure and displacement including reservations and treaty lands;¶

(i) The imposition of the ownership model on the land; the Donation Land Act and the associated land grants made exclusively to white settlers in the mid-nineteenth century; laws illegalizing ownership of land for particular communities;¶

(j) Land and housing access restrictions like sundown laws and their geographic boundaries; segregated schools,¶

neighborhoods, parks, and natural areas; mortgage redline maps; insurance blueline maps; histories of block-busting practices; and any unnecessary institutionalization and incarceration.¶

(d) Urban renewal and large public works projects that displaced communities, including transportation infrastructure projects, freeway development, and other uses of eminent domain to seize property and wealth; land use and zoning decisions that systematically excluded or segregated particular communities, limited their access to desirable neighborhoods, or enforced discriminatory land use practices; and¶

(e) Other occurrences of property seizure, unsafe living conditions, and displacement for particular communities.¶

(1135) "Producers of Needed Housing" means developers, builders, service providers, or other persons or entities providing materials and funding needed to build Needed Housing. Producers of Needed Housing may include non-profit organizations, for-profit organizations, or public entities.¶

(1236) "Protected class" includes the meaning provided in ORS 659A.425, which encompasses federal Fair Housing Act protected classes, state protected classes, and any locally protected classes.¶

(37) "Public body" has the meaning defined in ORS 174.109.¶

(38) "Redevelopable Land" means land zoned for residential use on which development has already occurred but on which, due to present or expected market forces, there exists the strong likelihood that existing development will be converted to more intensive residential uses during the planning period.¶

(39) "Safe harbor" means an optional course of action that a city may use to satisfy a requirement of Goal 10. Use of a safe harbor prescribed in this division will satisfy the requirement for which it is prescribed. A safe harbor is not the only way or necessarily the preferred way to comply with a requirement and it is not intended to interpret the requirement for any purpose other than applying a safe harbor within this division.¶

(40) "Segregation" means a condition within specific geographic areas of analysis in which there is a significant concentration of individuals of a particular protected class, named community in needed housing as provided in ORS 197A.018, or tribal community in a particular geographic area when compared to a different or broader geographic area. Racial segregation includes a concentration of individuals of the same race regardless of whether that race is the majority or minority of the population in the geographic area of analysis. For example, in a community where individuals of one race are concentrated in one neighborhood and individuals of another race are concentrated in a different neighborhood, racial segregation exists in each of the neighborhoods. For individuals with disabilities, segregation includes a condition in which available housing or services are not in the most integrated setting appropriate to an individual's needs.¶

(41) "Single-room occupancy housing" has the meaning provided in ORS 197A.430.¶

(42) "Tenure" means the full range of housing tenure types encompassing forms of occupancy and ownership, including but not limited to rental; market-, shared-, limited-, and zero-equity structures as applied to various ownership models like community land trusts and resident-owned cooperatives; condominium ownership; and fee simple ownership.¶

(43) "Tribe" as defined in ORS 182.162(2) means a federally recognized Indian tribe in Oregon.¶

(44) "Tribal communities" means tribally affiliated Oregonians including enrolled members of tribes and their households.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.29475 - 197.314493, ORS 197.47A.015 - 197A.4970

REPEAL: 660-008-0010

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: The Allocation of Buildable Land is an analysis that designates land on the comprehensive plan map to satisfy housing needs by type and density range as determined in the housing needs projection.

CHANGES TO RULE:

~~660-008-0010~~

~~Allocation of Buildable Land ¶¶~~

~~(1) The mix and density of needed housing is determined in the housing needs projection. Sufficient buildable land shall be designated on the comprehensive plan map to satisfy housing needs by type and density range as determined in the housing needs projection. The local buildable lands inventory must document the amount of buildable land in each residential plan designation.¶¶~~

~~(2) For purposes of preparing Housing Capacity Analyses as provided in OAR 660-008-0045, the following provisions apply to local governments that are subject to OAR 660-012-0310(2):¶¶~~

~~(a) Following the initial designation of climate-friendly areas as required in OAR 660-012-0315, local governments shall maintain climate-friendly area zones with sufficient zoned residential building capacity to contain at least 30 percent of current and projected housing needs. However, the local government shall determine housing capacity within the climate-friendly area for the purpose of meeting identified housing needs as required by Goal 10 and this division in a manner consistent with ORS 197.296(5).¶¶~~

~~(b) The local government shall calculate the zoned residential building capacity within climate-friendly areas consistent with the provisions of OAR 660-012-0315(2), or utilizing an alternative methodology as provided in OAR 660-012-0320(10). The local government shall include demonstration of compliance with this requirement in each subsequent Housing Capacity Analysis.¶¶~~

~~(c) The local government shall establish land use requirements in climate-friendly areas as provided in OAR 660-012-0320 for any newly designated climate-friendly area concurrent with or prior to the adoption of a Housing Capacity Analysis.¶¶~~

~~(3) Beginning June 30, 2027:¶¶~~

~~(a) A local government subject to OAR 660-012-0310(2) that has identified a need to expand its urban growth boundary to accommodate an identified residential land need shall designate and zone additional climate-friendly area as provided in OAR 660-012-0315 concurrent with expansion of the urban growth boundary.¶¶~~

~~(b) A local government shall designate and zone climate-friendly area of sufficient size to accommodate the number of housing units equivalent to one-half of the number of additional housing units that cannot reasonably be accommodated within the current urban growth boundary.¶¶~~

~~(c) The local government shall calculate the climate-friendly area needed based on zoned residential building capacity as provided in OAR 660-012-0315(2), or utilizing an alternative methodology as provided in OAR 660-012-0320(10), while the local government shall determine housing capacity within the climate-friendly area for the purpose of meeting identified housing needs as required by Goal 10 and this division in a manner consistent with ORS 197.296(5). Identified housing needs that would otherwise necessitate an urban growth boundary expansion shall only be accommodated in climate-friendly areas to the extent that the production of needed housing types within the climate-friendly areas may be anticipated consistent with ORS 197.296(5).¶¶~~

~~(d) The local government may choose to designate a portion of the newly expanded urban growth boundary area as climate-friendly area if the area qualifies for designation as provided in OAR 660-012-0310(2), or may choose to designate additional climate-friendly area in other locations within the urban growth boundary that qualify for designation.¶¶~~

~~(e) The local government may accommodate additional climate-friendly areas within one or more locations within the urban growth boundary. The designation and zoning of additional climate friendly area shall comply with all applicable requirements for climate-friendly areas as provided in OAR 660-012-0310 through OAR 660-012-0325.~~

~~Statutory/Other Authority: ORS 197.040~~

~~Statutes/Other Implemented: ORS 197.296–197.314, 197.475–197.490, ORS 197.012, ORS 197.286~~

AMEND: 660-008-0015

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: This rule requires Cities to adopt clear and objective standards for the development of needed housing on buildable land, ensuring that these standards do not unreasonably increase costs or cause delays.

CHANGES TO RULE:

660-008-0015

Clear and Objective Approval Standards Required ¶

(1) Except as provided in section (2) ~~of this rule~~, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of needed housing on buildable land. The standards, conditions and procedures may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay. ¶

(2) In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in section (1) ~~of this rule~~, a local government may adopt and apply an optional alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if: ¶

(a) The applicant retains the option of proceeding under the approval process that meets the requirements of section (1); ¶

(b) The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and ¶

(c) The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in section (1) ~~of this rule~~. ¶

(3) Subject to section (1), this rule does not infringe on a local government's prerogative to: ¶

(a) Set approval standards under which a particular housing type is permitted outright; ¶

(b) Impose special conditions upon approval of a specific development proposal; or ¶

(c) Establish approval procedures.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.29475 - 197.314, ~~197.47493~~, ORS 197A.015 - 197A.4970

REPEAL: 660-008-0020

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: Plan designations that allow or require residential uses shall be assigned to all buildable land. The plan designations assigned to buildable land shall be specific so as to accommodate the varying housing types and densities identified in the local housing needs projection.

CHANGES TO RULE:

~~660-008-0020~~

~~Specific Plan Designations Required~~

~~(1) Plan designations that allow or require residential uses shall be assigned to all buildable land. Such designations may allow nonresidential uses as well as residential uses. Such designations may be considered to be "residential plan designations" for the purposes of this division. The plan designations assigned to buildable land shall be specific so as to accommodate the varying housing types and densities identified in the local housing needs projection.~~

~~(2) A local government may defer the assignment of specific residential plan designations only when the following conditions have been met:~~

~~(a) Uncertainties concerning the funding, location and timing of public facilities have been identified in the local comprehensive plan;~~

~~(b) The decision not to assign specific residential plan designations is specifically related to identified public facilities constraints and is so justified in the plan; and~~

~~(c) The plan includes a time-specific strategy for resolution of identified public facilities uncertainties and a policy commitment to assign specific residential plan designations when identified public facilities uncertainties are resolved.~~

~~Statutory/Other Authority: ORS 197.040~~

~~Statutes/Other Implemented: 197.295 - 197.314, 197.475 - 197.490~~

REPEAL: 660-008-0025

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: A local government may defer rezoning of land within an urban growth boundary to maximum planned residential density provided that the process for future rezoning is reasonably justified.

CHANGES TO RULE:

~~660-008-0025~~

~~The Rezoning Process~~

~~A local government may defer rezoning of land within an urban growth boundary to maximum planned residential density provided that the process for future rezoning is reasonably justified. If such is the case, then:~~

~~(1) The plan shall contain a justification for the rezoning process and policies which explain how this process will be used to provide for needed housing.~~

~~(2) Standards and procedures governing the process for future rezoning shall be based on the rezoning justification and policy statement, and must be clear and objective and meet other requirements in OAR 660-008-0015.~~

~~Statutory/Other Authority: ORS 197.040~~

~~Statutes/Other Implemented: ORS 197.295 - 197.314, 197.475 - 197.490~~

REPEAL: 660-008-0030

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: This rule describes requires local governments to coordinate regionally in fairly determining and allocating local housing needs, types, and densities across localities within the region.

CHANGES TO RULE:

~~660-008-0030~~

~~Regional Coordination~~

~~(1) Each local government shall consider the needs of the relevant region in arriving at a fair allocation of housing types and densities.¶¶~~

~~(2) The local coordination body shall be responsible for ensuring that the regional housing impacts of restrictive or expansive local government programs are considered. The local coordination body shall ensure that needed housing is provided for on a regional basis through coordinated comprehensive plans.~~

~~Statutory/Other Authority: ORS 197.040~~

~~Statutes/Other Implemented: ORS 197.295 – 197.314, 197.475 – 197.490~~

REPEAL: 660-008-0035

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: This rule describes the standards by which a local government may take a Goal 2, Part II exception related to the local housing needs projection. These standards include regional satisfaction of need of the housing type, sufficient buildable land allocation that meets the needs otherwise provided for by the excluded housing type, and support of the excluded housing type exists in the comprehensive plan and other affected units of government.

CHANGES TO RULE:

~~660-008-0035~~

~~Substantive Standards for Taking a Goal 2, Part II Exception Pursuant to ORS 197.303(3)-~~

~~(1) A local government may satisfy the substantive standards for exceptions contained in Goal 2, Part II, upon a demonstration in the local housing needs projection, supported by compelling reasons and facts, that:~~

~~(a) The needed housing type is being provided for elsewhere in the region in sufficient numbers to meet regional needs;~~

~~(b) Sufficient buildable land has been allocated within the local jurisdiction for other types of housing which can meet the need for shelter at the particular price ranges and rent levels that would have been met by the excluded housing type; and~~

~~(c) The decision to substitute other housing types for the excluded needed housing type furthers the policies and objectives of the local comprehensive plan, and has been coordinated with other affected units of government.~~

~~(2) The substantive standards listed in section (1) of this rule shall apply to the ORS 197.303(3) exceptions process in lieu of the substantive standards in Goal 2, Part II.~~

~~Statutory/Other Authority: ORS 197.040~~

~~Statutes/Other Implemented: ORS 197.295 – 197.314, 197.475 – 197.490~~

REPEAL: 660-008-0040

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: This rule requires a determination of housing need related to tenure to justify any local government restrictions on housing tenure.

CHANGES TO RULE:

~~660-008-0040~~

~~Restrictions on Housing Tenure~~

~~Any local government that restricts the construction of either rental or owner occupied housing shall include a determination of housing need according to tenure as part of the local housing needs projection.~~

~~Statutory/Other Authority: ORS 197.040~~

~~Statutes/Other Implemented: ORS 197.295 - 197.314, 197.475 - 197.490~~

AMEND: 660-008-0045

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: This rule describes the deadlines, process, and schedule for Housing Capacity Analyses and Housing Production Strategies. It requires the Department to publish the schedule annually. The rule specifies that the applicable housing need and production targets are based on the most recent data available in the year a city adopts their Housing Capacity Analysis.

CHANGES TO RULE:

660-008-0045

Housing Capacity Analysis Deadline

Cities described in ORS ~~197A.296(2)(a)(B) and (10)(c)(B)~~ shall demonstrate sufficient Buildable Lands 70, 197A.280, and 197A.335 shall adopt a housing capacity analysis and adopt a housing production strategy as scheduled by the Commission.¶

(1) The Department shall publish the calendar schedule of housing capacity analyses and housing production strategies deadlines for cities identified under ORS ~~197A.296(2)(a)(B) or (10)(c)(B)~~ in Exhibit 70, 197A.280, and 197A.335 in Attachment A.¶

(2) The deadline for adoption of a housing capacity analysis and a housing production strategy in a given year is December 31st.¶

(3) ~~A city~~ The department will be considered a city to have met its obligation to adopt a housing capacity analysis upon adoption of the housing capacity analysis by ordinance. ~~A subsequent appeal of the~~ The department will not consider a subsequent appeal of the city ordinance adopting its housing capacity analysis ~~will not be a failure to comply with the deadline provided in Attachment A provided in section (1).~~¶

~~(4) The department will~~ considered a failure to comply with the deadline provided in Exhibit A provided in section (1) city to have met its obligation to adopt a housing production strategy upon adoption of the housing production strategy. As provided in ORS 197A.100(7), the adoption of a housing production strategy is not a land use decision and is not subject to appeal or review except as provided in ORS 197A.103.¶

~~(45)~~ Upon adoption of a housing capacity analysis, the deadline for a subsequent housing capacity analysis is as follows:¶

(a) Eight years subsequent for cities that are not within a metropolitan service district; or¶

(b) Six years subsequent for cities that are within a metropolitan service district. ~~Metro.~~¶

~~(6)~~ The housing production strategy is due one year after the city's deadline for completing a housing capacity analysis, as prescribed in section (1).¶

~~(7)~~ The applicable allocation of housing need and housing production target, as provided in ORS ~~184.451 to 184.455~~, are those that are most recent in the year of the adoption of the housing capacity analysis.¶

~~(58)~~ If a population estimate developed under ORS 195.033 and OAR 660-032-0020 and OAR 660-032-0030 results in a city qualifying under ORS ~~197A.296(2)(a)(B) or (10)(c)(B)~~ 70, 197A.280, and 197A.335, the city must adopt a housing capacity analysis within two years of its qualification or the interval provided in section (45), whichever is the longer period.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS ~~197.290, ORS 197.291, ORS 197.293, ORS 197.296, ORS 197.303~~ A.015 - 197A.470

RULE SUMMARY: This rule describes the structure and components of a Housing Production Strategy.

CHANGES TO RULE:

~~660-008-0050~~

~~Housing Production Strategy Report Structure~~

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

~~(1) Contextualized Housing Need – A contextualization and incorporation of information from the most recent Housing Capacity Analysis that describes current and future housing needs in the context of population and market trends.~~

~~(a) At a minimum, this must include a discussion of:~~

~~(A) Socio-economic and demographic trends of households living in existing Needed Housing. This must include a disaggregation of households living in existing Needed Housing by race and ethnicity;~~

~~(B) Measures already adopted by the city to promote the development of Needed Housing;~~

~~(C) Market conditions affecting the provision of Needed Housing;~~

~~(D) Existing and expected barriers to the development of Needed Housing;~~

~~(E) An estimate of the number of people or households experiencing homelessness. Estimates must include, as available, the following data sources:~~

~~(i) An estimate of regional housing need for people experiencing homelessness provided by the state or regional entity;~~

~~(ii) The applicable Housing and Urban Development Point-in-Time count conducted by the Continuum of Care that the city is located within;~~

~~(iii) The applicable Housing and Urban Development Annual Homelessness Assessment Report; and~~

~~(iv) The applicable McKinney-Vento Homeless Student Data for all school districts that overlap with the city boundary.~~

~~(F) Percentage of Rent Burdened Households, as determined in the report described in OAR 813-112-0020(2);~~

~~(G) Housing tenure, including rental and owner households; and~~

~~(H) Housing needs for people with disabilities, including hearing, vision, cognitive, ambulatory, self-care difficulty, and independent living as provided in the applicable American Community Survey and other data sets, as available.~~

~~(b) A city may use the following types and sources of data to further contextualize housing need for the purposes of this section:~~

~~(A) The percentage of housing stock that is market rate compared to the percentage of housing stock that is subsidized to make it affordable;~~

~~(B) Units that the city has permitted but which have not yet been produced;~~

~~(C) Population groups that are not typically accounted for in a Housing Capacity Analysis, including but not limited to college and university students or second homeowners;~~

~~(D) Redevelopment rates that impact the preservation of existing affordable market-rate units; and~~

~~(E) Other types and sources of data to refine housing need for those experiencing homelessness, including:~~

~~(i) Data collected by local Coordinated Care Organizations;~~

~~(ii) Data collected by community action agencies;~~

~~(iii) The capacity of existing emergency shelters;~~

~~(iv) Rental and homeowner vacancy rates;~~

~~(v) Change in gross or net property values or rent over time;~~

~~(vi) Qualitative data that illustrate specific needs of people experiencing homelessness; and~~

~~(vii) Other local houseless population datasets~~

~~(2) Engagement – A Housing Production Strategy Report must include a narrative summary of the process by which the city engaged Consumers of Needed Housing and Producers of Needed Housing, especially with regard to state and federal protected classes. A city may conduct engagement for a Housing Production Strategy concurrent with other housing planning efforts within the city including, but not limited to, a Housing Capacity Analysis, Consolidated Plans for Community Development Block Grant Entitlement Communities, and public engagement for Severely Rent Burdened Households as described in OAR 813-112-0010. The narrative summary~~

must include the following elements:¶¶

(a) A list and description of stakeholders who will be impacted by potential Housing Production Strategies, stating who was engaged and why, including Consumers of Needed Housing and Producers of Needed Housing;¶¶

(b) A summary of feedback received from each stakeholder group;¶¶

(c) A description of how the information from stakeholders influenced implementation of Housing Production Strategies adopted by the city as provided in section (3); and¶¶

(d) An evaluation of how to improve engagement practices for future housing engagement efforts conducted by the city.¶¶

(3) Strategies to Meet Future Housing Need – A Housing Production Strategy Report must identify a list of specific actions, measures, and policies needed to address housing needs identified in the most recent Housing Capacity Analysis. The strategies proposed by a city must collectively address the next 20-year housing need identified within the most recent Housing Capacity Analysis and contextualized within the Report as provided in section (1).

A Housing Production Strategy Report may identify strategies including, but not limited to, those listed in the Housing Production Strategy Guidance for Cities published by the Commission under Exhibit B. For each identified Housing Production Strategy, the Housing Production Strategy Report must include:¶¶

(a) A description of the Housing Production Strategy chosen;¶¶

(b) A timeline for adoption of the Housing Production Strategy;¶¶

(c) A timeline for implementation of the Housing Production Strategy; and¶¶

(d) An estimated magnitude of impact of the Housing Production Strategy, including:¶¶

(A) Housing need addressed by the identified Housing Production Strategy by tenure and income;¶¶

(B) An estimate of the number of housing units that are anticipated to be created through implementation of the identified Housing Production Strategy;¶¶

(C) An analysis of the income and demographic populations that are anticipated to receive benefit or burden from the Housing Production Strategy, including:¶¶

(i) Low-income communities;¶¶

(ii) Communities of color;¶¶

(iii) People with disabilities; and¶¶

(iv) Other state and federal protected classes; and¶¶

(D) A time frame over which the Housing Production Strategy is expected to impact Needed Housing.¶¶

(4) Achieving Fair and Equitable Housing Outcomes – A Housing Production Strategy Report must include a narrative summarizing how the selected Housing Production Strategies, in combination with other city actions, will achieve equitable outcomes with regard to the following factors:¶¶

(a) Location of Housing – How the city is striving to meet statewide greenhouse gas emission reduction goals, established under Executive Order No. 20-04, by creating compact, mixed-use neighborhoods available to people who are members of state and federal protected classes. Within Metro, cities subject to this rule shall describe actions taken by the city to promote the production of regulated affordable units, as defined in ORS 456.586(1)(b); to promote the production of accessible dwelling units; to mitigate or avoid the displacement of members of state and federal protected classes; and to remove barriers and increase housing choice for members of state and federal protected classes within Region 2040 centers. Cities subject to this rule and OAR 660-012-0310(2) shall describe actions taken by the city to promote the production of regulated affordable units, as defined in ORS 456.586(1)(b); to promote the production of accessible dwelling units; to mitigate or avoid the displacement of members of state and federal protected classes; and to remove barriers and increase housing choice for members of state and federal protected classes within climate-friendly areas. An accessible dwelling unit is a dwelling unit constructed to accommodate persons with disabilities, in compliance with the Americans with Disabilities Act and applicable construction requirements in adopted building codes;¶¶

(b) Fair Housing – How the city is affirmatively furthering fair housing for all state and federal protected classes. Affirmatively furthering fair housing means addressing disproportionate housing needs, patterns of integration and segregation, racially or ethnically concentrated areas of poverty, and disparities in access to housing opportunity;¶¶

(c) Housing Choice – How the city is facilitating access to housing choice for communities of color, low-income communities, people with disabilities, and other state and federal protected classes. Housing choice includes access to existing or new housing that is located in neighborhoods with high-quality community amenities, schooling, employment and business opportunities, and a healthy and safe environment.¶¶

(d) Housing options for residents experiencing homelessness – How the city is advocating for and 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 and other housing options for residents experiencing homelessness;¶¶

(e) Affordable Homeownership and Affordable Rental Housing – How the city is supporting and creating opportunities to encourage the production of affordable rental housing and the opportunity for wealth creation

via homeownership, primarily for state and federal-protected classes that have been disproportionately impacted by past housing policies; and¶¶

(f) Gentrification, Displacement, and Housing stability – How the city is increasing housing stability for residents and mitigating the impacts of gentrification, as well as the economic and physical displacement of existing residents resulting from investment or redevelopment.¶¶

(5) A Housing Production Strategy Report must include the following additional elements:¶¶

(a) A description of any opportunities, constraints, or negative externalities associated with adoption of the elements of proposed Housing Production Strategies;¶¶

(b) A description of actions that the city and other stakeholders must take to implement the proposed Housing Production Strategies;¶¶

(c) If the Housing Production Strategy Report is the first produced under this division, a description of how the city will measure strategy implementation and progress;¶¶

(d) If the Housing Production Strategy Report is not the first produced under this section, a summary of strategies that the city has previously adopted and implemented, and a reflection on the efficacy of each implemented strategy; and¶¶

(e) A copy of the city's most recently completed survey to meet the requirements of ORS 456.586.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.290, ORS 197.291, ORS 197.293, ORS 197.296, ORS 197.303, ORS 197.012

REPEAL: 660-008-0055

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: This rule describes the procedure by which the Department reviews Housing Production Strategies.

CHANGES TO RULE:

~~660-008-0055~~

~~Review of Housing Production Strategy Reports~~

- ~~(1) No later than 20 days after a city's adoption or amendment of a Housing Production Strategy Report, a city must submit the adopted Report or amended Report to the Department.¶¶~~
- ~~(2) On the same day the city submits notice of the Housing Production Strategy Report or amended Report to the Department, the city must provide a notice to persons who participated in the proceedings that led to the adoption of the Housing Production Strategy Report and requested notice in writing.¶¶~~
- ~~(3) Within ten days of receipt of the submission under section (1), the Department must provide notice to persons described under ORS 197.615 (3).¶¶~~
- ~~(4) Notices given under sections (2) and (3) must state:¶¶~~
- ~~(a) How and where materials described under section (5) may be freely obtained;¶¶~~
- ~~(b) That comments on the Housing Production Strategy Report may be submitted to the Department within 45 days after the Department has received the submission under section (1); and¶¶~~
- ~~(c) That there is no further right of appeal of the Department's decision under section (7).¶¶~~
- ~~(5) The submission under section (1) must include copies of:¶¶~~
- ~~(a) The signed decision adopting the Housing Production Strategy Report or amended Report;¶¶~~
- ~~(b) The text of the Housing Production Strategy Report as provided in OAR 660-008-0050 and any amendments to the most recent Report submitted under section (1);¶¶~~
- ~~(c) A brief narrative summary of the Housing Production Strategy Report; and¶¶~~
- ~~(d) The information that the city reviewed and considered under section (6).¶¶~~
- ~~(6) The Department shall review the accuracy and sufficiency of the Housing Production Strategy Report based upon the following:¶¶~~
- ~~(a) Unmet housing need as described in ORS 197.296(6);¶¶~~
- ~~(b) Unmet housing need in proportion to the city's population;¶¶~~
- ~~(c) Percentage of households identified as severely rent burdened;¶¶~~
- ~~(d) Recent housing development;¶¶~~
- ~~(e) Recent adoption of a Housing Production Strategy or implementation of actions therein;¶¶~~
- ~~(f) The city's response to address the housing needs of those experiencing homelessness;¶¶~~
- ~~(g) Increased access to housing opportunity including the elimination of barriers to fair and equitable housing options;¶¶~~
- ~~(h) Other attributes that the Commission considers relevant; and¶¶~~
- ~~(i) Recent or frequent failure to address the metrics listed in the criteria in this subsection.¶¶~~
- ~~(7) The Department shall, within 120 days after receiving the submission under section (1):¶¶~~
- ~~(a) Approve the Housing Production Strategy Report;¶¶~~
- ~~(b) Approve the Housing Production Strategy Report, subject to further review and actions recommended by the Department based on its review under section (6); or¶¶~~
- ~~(c) Remand the Housing Production Strategy Report for further modification as identified by the Department.¶¶~~
- ~~(8) A determination by the Department under section (7) is not a land use decision and is final and not subject to appeal.¶¶~~
- ~~(9) The Department will maintain an annual summary of proposed Housing Production Strategies included in Reports submitted under section (1) and reports submitted under OAR 660-008-0060.~~
- ~~Statutory/Other Authority: ORS 197.040~~
- ~~Statutes/Other Implemented: ORS 197.290, ORS 197.291, ORS 197.293, ORS 197.296, ORS 197.303~~

REPEAL: 660-008-0060

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: This rule describes the process and components of the required Housing Production Strategy implementation report.

CHANGES TO RULE:

~~660-008-0060~~

~~Reporting on Housing Production Strategy Implementation~~

~~(1) Cities required to adopt a Housing Production Strategy Report under ORS 197.290(1), must submit a narrative report to the Department for review and comment based on the following schedule:¶¶~~

~~(a) For cities that are within a metropolitan service district boundary, no later than December 31st three years after the city adopted a Housing Production Strategy Report; or¶¶~~

~~(b) For cities that are not within a metropolitan service district boundary, no later than December 31st four years after the city adopted a Housing Production Strategy Report.¶¶~~

~~(2) The narrative report a city submits under section (1) must include the following:¶¶~~

~~(a) A summary of the actions already taken by the city to implement the Strategies to Meet Future Housing Need adopted in the city's most recent Housing Production Strategy Report. If the city has not implemented Strategies to Meet Future Housing Need on the schedule adopted in their most recent Housing Production Strategy Report, the city must provide an explanation of the circumstances or factors that posed a barrier to implementation and a plan for addressing the identified need that the strategy addressed;¶¶~~

~~(b) A reflection of the relative efficacy of implemented Strategies to Meet Future Housing Need adopted in the city's most recent Housing Production Strategy Report; and¶¶~~

~~(c) A reflection of the actions taken in response to the factors identified in OAR 660-008-0050(4).¶¶~~

~~(3) Upon submittal of the narrative report developed under section (1), the Department will review the report for consistency with the Housing Production Strategy Report approved under criteria provided in OAR 660-008-0055(6). The Department may also consider reporting under ORS 456.586(4) as part of this review.¶¶~~

~~(4) Within ten days of receipt of the submission under section (1), the Department must provide notice to persons described under ORS 197.615 (3).¶¶~~

~~(5) Should the Department find the narrative report submitted under section (1) does not substantially comply with the criteria in OAR 660-008-0055(3), the Department may take action identified in OAR 660-008-0070.~~

~~Statutory/Other Authority: ORS 197.040~~

~~Statutes/Other Implemented: ORS 197.290, ORS 197.291, ORS 197.293, ORS 197.296, ORS 197.303~~

REPEAL: 660-008-0065

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: This rule delineates the accountability actions the Department must take if a city is delinquent in submitting a Housing Capacity Analysis or Housing Production Strategy report.

CHANGES TO RULE:

~~660-008-0065~~

~~Non-Compliance in Adoption of Housing Capacity Analysis or Housing Production Strategy Report~~

~~The Department will review a city's Housing Capacity Analysis and a city's Housing Production Strategy Report for compliance with the applicable portions 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 a city determines that it will be unable to adopt a Housing Capacity Analysis or Housing Production Strategy Report by the prescribed deadline, the city must notify the Department of the expected delinquency at least 60 days before the applicable deadline for a Housing Capacity Analysis or Housing Production Strategy Report. In response, the Department and the city may agree to remediation either through enhanced review of documents, directed technical assistance to overcome the impediment as available, or other similar measures, and include timelines for completion.¶¶~~

~~(2) If the city has not submitted a Housing Production Strategy Report for Department review by the deadline provided in OAR 660-008-0050 and has not notified the Department of an expected delinquency, the Department may work with the city and may seek mitigation of the delinquency through an Intergovernmental Agreement outlining specific compliance actions, timeline of deliverables, and subsequent enforcement actions. The Intergovernmental Agreement may include directed technical assistance or financial resources.¶¶~~

~~(3) If the Department and the city have entered into an Intergovernmental Agreement under section (2) and the city, at the discretion of the Department, has not sufficiently mitigated the identified delinquency, the Department may remove the city from consideration of technical assistance or other financial resource awards.¶¶~~

~~(4) If the city does not adopt a Housing Capacity Analysis or Housing Production Strategy Report as provided in this division, does not enter into an Intergovernmental Agreement with the Department to remedy the deficiency, or does not comply with the terms of an Intergovernmental Agreement to remedy the deficiency, the Department may request the Commission to act under ORS 197.319 to 197.335 to require the city to comply with ORS 197.295 to 197.314, this division, or statewide land use planning goals related to housing or urbanization.~~

~~Statutory/Other Authority: ORS 197.040~~

~~Statutes/Other Implemented: ORS 197.290, ORS 197.291, ORS 197.293, ORS 197.296, ORS 197.303~~

REPEAL: 660-008-0070

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: This rule delineates the accountability actions the Department must take if a city fails to undertake actions as outlined in the Housing Production Strategy report.

CHANGES TO RULE:

~~660-008-0070~~

~~Non-Compliance in Adoption and Implementation of Strategies to Meet Future Housing Need Identified in a Housing Production Strategy Report~~

~~The Department shall review a city's Housing Production Strategy Report and narrative reports pursuant to OAR 660-008-0060 based upon criteria provided in OAR 660-008-0055. If there is a delinquency in the adoption or implementation of an identified strategy, the Department may engage with the city in one or more of the following actions:¶¶~~

~~(1) If circumstances impede a city's ability to implement one or more Strategies to Meet Future Housing Need in coherence with the timeline adopted in the city's Housing Production Strategy Report, the city must notify the Department of the expected delinquency within 90 days of the end of the timeline to implement the specific Strategy to Meet Future Housing Need adopted in the city's Housing Production Strategy Report. The notice must identify specific actions, or a combination of actions, that the city is currently taking, or will take, to address the delinquency. This may include, but is not required to include, amendments to the adopted Housing Production Strategy Report such that the city identifies a different action, or combination of actions, to address the specific housing need. The Department and the city may agree to remediation either through enhanced review of the documents, directed technical assistance to overcome the impediment as available, or other similar agreement.¶¶~~

~~(2) If a city does not take sufficient action to mitigate the identified delinquency, either through a failure to provide notice to the Department as provided in section (1) or through a failure to implement the specific actions, or combination of actions, by the timeline identified in the notice to the Department pursuant to section (1), the Department shall work with the city and may seek mitigation of the issues through an Intergovernmental Agreement outlining specific compliance actions, a timeline of deliverables, and subsequent enforcement actions. The Intergovernmental Agreement may or may not include directed technical assistance or financial resources.¶¶~~

~~(3) If the Department and the city have entered into an Intergovernmental Agreement under section (2) 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 terms of Intergovernmental Agreements and the criteria provided in OAR 660-008-0055 or this section, the Department may petition the Commission to act under ORS 197.319 to 197.335 to require the city to comply with ORS 197.295 to 197.314, this division, or statewide land use planning goals related to housing or urbanization.~~

~~Statutory/Other Authority: ORS 197.040~~

~~Statutes/Other Implemented: ORS 197.290, ORS 197.291, ORS 197.293, ORS 197.296, ORS 197.303~~

RULE SUMMARY: The Contextualized Housing Need is an analysis that localizes and specifies the housing attributes that a city needs for the purposes of its Goal 10: Housing planning work, spanning both the Housing Capacity Analysis and the Housing Production Strategy. It consists of a localized analysis of quantitative and qualitative needs that encompass housing types, characteristics, and locations with particular focus on fair housing issues, protected classes, and other priority populations named in statute or experiencing inequitable housing outcomes to Affirmatively Further Fair Housing.

CHANGES TO RULE:

660-008-0075

Contextualized Housing Need

The contextualized housing need is an analysis relating a city's allocated housing need and housing production target, as provided in ORS 184.451 to 184.455 and OAR 660-008-0045(7), to local qualitative and quantitative information. This analysis uses current and future housing needs, along with population and market trends, to evaluate fair housing choice and identify fair housing issues in the city to affirmatively further fair housing. A city must work interdepartmentally to the extent possible in developing and implementing its contextualized housing need, including but not limited to collaboration across the planning, permitting, and community development departments. The analysis must include consideration of protected classes and named communities in needed housing as provided in ORS 197A.018, with particular focus on communities of color, low-income communities, individuals with disabilities, and tribal communities.¶

The output of the analysis is a determination of the needed types, characteristics, and locations of housing that a city must plan for in its six- or eight-year housing capacity and production cycle in order to mitigate and remedy the identified fair housing issues in furtherance of fair housing choice. Subsequent housing capacity analyses and any land use efficiency measures taken, as well as the housing production strategy and all actions therein, must respond to the identified needed housing types and locations, and characteristics as applicable, as determined by this contextualized housing need. To the extent it exists, a city may utilize information, data, and analyses from other housing planning efforts completed in the last five years within the city including, but not limited to, equity analyses and other reports conducted under OAR chapter 660, division 12 and consolidated plans for any of the United States Department of Housing and Urban Development (HUD)'s Community Planning and Development formula grant programs including Community Development Block Grant Entitlement Communities.¶

(1) At a minimum, the contextualized housing need must include:¶

(a) An affordability analysis including at a minimum a review of market conditions affecting the provision of needed housing including existing and expected barriers to the development of needed housing;¶

(b) An analysis of past discriminatory actions or practices related to land and housing access including, as practicable given information and resource availability, mapping of the geographies impacted by these actions and comparing those geographies' relationship to current patterns of segregation as well as affluence and poverty as illustrated in the housing equity indicators. Once initially completed, a city must update the past discriminatory actions analysis for future housing capacity analysis and housing production strategy cycles, incorporating new information and resources and in comparison to current conditions; and ¶

(c) An analysis of fair housing choice across the following issue areas for communities of color, low-income communities, individuals with disabilities, and tribal communities that concludes with the identification and evaluation of fair housing issues within a city. ¶

(A) Housing tenure and wealth building opportunities;¶

(B) Permanent housing to resolve homelessness;¶

(C) Accessible and adaptable housing;¶

(D) Access to community assets and mitigation of exposure to harms;¶

(E) Housing stability, anti-displacement and displacement mitigation;¶

(F) Addressing and disrupting patterns of segregation, and their correlation with concentrated areas of affluence and poverty; ¶

(G) Any issue areas the city is required to address in other requirements or regulations, including cities subject to OAR 660-012-0315(1) and cities within Metro with Region 2040 centers, as defined in OAR 660-012-0005(24); and¶

(H) Any other issue areas that appear to exist based on occurrences of disparate housing needs in a city across protected classes and named communities in needed housing as provided in ORS 197A.018;¶

(d) If a city concludes that there are no fair housing issues in one or more of the identified fair housing issue areas

listed in subsection (c), a detailed justification for this conclusion. This justification must include:

- (A) A comprehensive analysis from subsection (c) that demonstrates the absence of disparate housing needs or barriers in the issue area(s) and the presence of housing choice and stability for all community members, and
- (B) A plan for ongoing monitoring to ensure that fair housing issues do not emerge in the future, including a commitment to re-evaluate the issue area(s) in subsequent contextualized housing need analyses and housing production strategy adoptions.

(e) Description and identification of the housing types, characteristics, and locations needed to:

- (A) Remedy, or mitigate the fair housing issues identified in subsection (c) in order to achieve fair housing choice, and
- (B) Meet the city's housing production target while affirmatively furthering fair housing; and

(f) For cities subject to OAR 660-012-0310, the number of housing units needed for the city to make proportionate progress towards accommodating 30 percent of all housing in climate-friendly areas in pursuit of the greenhouse gas emissions reduction targets as provided in OAR 660-044-0020 and OAR 660-044-0025, including affordable and accessible units. Cities with additional residential mixed-use zones may also report on housing development in those areas, and may evaluate the relative success of measures supporting housing development in both areas.

(2) The contextualized housing need must be informed at a minimum by the following information:

- (a) The housing production dashboard;
- (b) The housing equity indicators including socioeconomic and demographic characteristics of households living in existing needed housing; and
- (c) Equitable engagement as provided in section (5); and
- (d) Any statewide, regionally, or locally applicable information provided in section (3).

(3) The department may host a repository of information organized by state and regional applicability for use in the contextualized housing need. The department may update this repository as new information is available and obsolete or outdated information needs to be removed. Any information in this repository shall be considered to be "available" for the purposes of section (4).

(4) The contextualized housing need must be informed by the additional information listed in this section as it is available and recent within the last five years. One way that additional information may be deemed to be available under this section is if it is listed in the department-hosted repository as provided in section (3).

- (a) The State of Oregon Analysis of Impediments to Fair Housing Choice;
- (b) An estimate of quantified housing need by the state, regional, local, or tribal government for individuals experiencing homelessness, protected classes, named communities in needed housing as provided in ORS 197A.018, and tribal communities;
- (c) The HUD Annual Homelessness Assessment Report;
- (d) The applicable HUD Point-in-Time count conducted by the Continuum of Care that the city is located within;
- (e) The applicable McKinney-Vento Homeless Student Data for all school districts that overlap with the city boundary;
- (f) Fair housing complaint data from federal, state, or local agencies;
- (g) Rental and homeowner vacancy rates;
- (h) Change in gross or net property values or rent over time;
- (i) Data collected by local coordinated care organizations;
- (j) Data collected by the Community Action Partnership of Oregon and its community action agencies;
- (k) Trends that may negatively impact preservation of affordable naturally occurring market-rate units, such as redevelopment rates and changes in market conditions;
- (l) A comprehensive inventory of existing housing units by housing types, characteristics, and locations; and
- (m) Data from organizations that advocate on behalf of protected classes, named communities in needed housing as provided in ORS 197A.018, low-income communities, and tribal communities.

(5) The contextualized housing need must be informed by equitable engagement feedback that prioritizes and actively seeks to center communities of color, low-income communities, individuals with disabilities, and tribal communities, to ensure these perspectives are meaningfully incorporated.

- (a) In compiling existing engagement feedback for use in this section, to the extent it exists a city must utilize feedback from other housing-related engagement within the city conducted within the last five years including, but not limited to, consolidated plans for any of HUD's Community Planning and Development formula grant programs including Community Development Block Grant Entitlement Communities, transportation system plan updates under OAR 660-012-0120 through 660-012-0135, and public engagement for severely rent burdened households as defined in OAR 813-112-0010. Except for the requirement to center tribal communities by coordinating and consulting with tribes, if the city has comprehensive housing-related engagement feedback completed within the last five years that sufficiently informs the contextualized housing need requirements and the city finds that additional equitable engagement would not align with best practices in the Equitable

Engagement Toolkit, the city may rely entirely on existing engagement feedback and must include an explanation for this determination in the equitable engagement summary. ¶

(b) If the city does not have comprehensive housing-related engagement feedback completed within the last five years that sufficiently informs the contextualized housing need requirements provided in section (1), a city must solicit direct feedback regarding all required analysis as provided in section (1) for which it does not have recent feedback. A city may refer to the department's Equitable Engagement Toolkit or OAR 660-012-0130 to employ best practices regarding equitable engagement. ¶

(c) A city must provide an equitable engagement summary as part of its contextualized housing need. The equitable engagement summary must include:¶

(A) A list and description of the types of interested parties and communities who comprise community members of needed housing including protected classes and named communities in needed housing as provided in ORS 197A.018, especially with regard to communities of color, low-income communities, individuals with disabilities, and tribal communities:¶

(B) As of the initiation of the contextualized housing need or later, the most recent list of tribes with ancestral connection to land within the city's jurisdiction or approved expansion areas from the Oregon Legislative Commission on Indian Services, and engagement with tribal communities is required through direct communication with all such identified tribes. A city satisfies the engagement requirement to center tribal communities in this rule when:¶

(i) Notice has been made to all tribes as identified in paragraph (B) by inviting government-to-government consultation and staff coordination in the development of the city's contextualized housing need, and¶

(ii) Follow up communication, consultation, and coordination as requested by the tribes regarding the contextualized housing need is complete.¶

(C) A summary of how the city engaged interested parties, communities, and tribes identified in paragraphs (A) and (B), including why they were engaged, engagement methods used, a list of each engagement effort or event being used to develop the contextualized housing need, and the interested parties, communities, or tribes identified in paragraph (A) or (B) who the city believes may still be underrepresented in this process:¶

(D) A summary of feedback received from each engagement effort or event, as well as a description of the major feedback themes attributed to the interested parties, communities, and tribes identified in paragraphs (A) and (B). A city must determine whether each major feedback theme either influenced the identification of fair housing issues and determination of the needed housing types, characteristics, and locations in the city in alignment with program principles or not. If a major feedback theme influenced these determinations, the specific fair housing issues or needed housing types, characteristics, and locations identified as a result of the feedback must be documented. If a major feedback theme did not influence the identification of specific fair housing issues or determination of needed housing types, characteristics, or locations; the city must provide a rationale explaining why.¶

(E) An evaluation of how to improve equitable engagement practices for future housing engagement efforts conducted by the city, including but not limited to affirmatively furthering fair housing and tribal coordination and consultation.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 184.451, ORS 197.475 - 197.493, ORS 197A.015-197A.470

ADOPT: 660-008-0080

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: This rule describes the process for the review and adoption of the Contextualized Housing Need.

CHANGES TO RULE:

660-008-0080

Review of Contextualized Housing Need

(1) The standard process for completing the contextualized housing need includes:¶

(a) Submission of the contextualized housing need as a component of the adoption of the housing capacity analysis as provided in OAR 660-008-0045(3), and¶

(b) The department shall review the sufficiency of the contextualized housing need based upon requirements provided in OAR 660-008-0075 at the time the city adopts its housing capacity analysis as provided in OAR 660-008-0045(3).¶

(2) A city may opt into an alternate process for completing the contextualized housing need through a segmented housing production strategy review under OAR 660-008-0215 prior to the adoption of a housing capacity analysis and housing production strategy wherein.¶

(a) The city shall notify the department of the selection of the segmented housing production strategy review, and¶

(b) Neither the department's decision nor the city's adoption of the contextualized housing need under this section is a land use decision.¶

(3) The contextualized housing need may be identified as a work task in a work program and reviewed as provided in OAR 660-025-0185, the sequential Review of Urban Growth Boundary Amendment Components rule.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.012, ORS 197.475 - 197.493, ORS 197A.015-197A.470, ORS 197.626

ADOPT: 660-008-0110

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: The Allocation of Buildable Land is an analysis that designates land on the comprehensive plan map to satisfy housing needs by type and density range as determined in the housing needs projection.

CHANGES TO RULE:

660-008-0110

Allocation of Buildable Land

(1) The mix and density of needed housing is determined in the housing needs projection. Sufficient buildable land shall be designated on the comprehensive plan map to satisfy housing needs by type and density range as determined in the housing needs projection. The local buildable lands inventory must document the amount of buildable land in each residential plan designation.

(2) For purposes of preparing housing capacity analyses as provided in OAR 660-008-0045, the following provisions apply to local governments that are subject to OAR 660-012-0310(2):

(a) Following the initial designation of climate-friendly areas as required in OAR 660-012-0315, local governments shall maintain climate-friendly area zones with sufficient zoned residential building capacity to contain at least 30 percent of current and projected housing needs. However, the local government shall determine housing capacity within the climate-friendly area for the purpose of meeting identified housing needs as required by Goal 10 and this division in a manner consistent with ORS 197A.350(5).

(b) The local government shall calculate the zoned residential building capacity within climate-friendly areas consistent with the provisions of OAR 660-012-0315(2), or utilizing an alternative methodology as provided in OAR 660-012-0320(10). The local government shall include demonstration of compliance with this requirement in each subsequent housing capacity analysis.

(c) The local government shall establish land use requirements in climate-friendly areas as provided in OAR 660-012-0320 for any newly designated climate-friendly area concurrent with or prior to the adoption of a housing capacity analysis.

(3) Beginning June 30, 2027:

(a) A local government subject to OAR 660-012-0310(2) that has identified a need to expand its urban growth boundary to accommodate an identified residential land need shall designate and zone additional climate-friendly area as provided in OAR 660-012-0315 concurrent with expansion of the urban growth boundary.

(b) A local government shall designate and zone climate-friendly area of sufficient size to accommodate the number of housing units equivalent to one-half of the number of additional housing units that cannot reasonably be accommodated within the current urban growth boundary.

(c) The local government shall calculate the climate-friendly area needed based on zoned residential building capacity as provided in OAR 660-012-0315(2), or utilizing an alternative methodology as provided in OAR 660-012-0320(10), while the local government shall determine housing capacity within the climate-friendly area for the purpose of meeting identified housing needs as required by Goal 10 and this division in a manner consistent with ORS 197A.350(5). Identified housing needs that would otherwise necessitate an urban growth boundary expansion shall only be accommodated in climate-friendly areas to the extent that the production of needed housing types within the climate-friendly areas may be anticipated consistent with ORS 197A.350(5).

(d) The local government may choose to designate a portion of the newly expanded urban growth boundary area as climate-friendly area if the area qualifies for designation as provided in OAR 660-012-0310(2), or may choose to designate additional climate-friendly area in other locations within the urban growth boundary that qualify for designation.

(e) The local government may accommodate additional climate-friendly areas within one or more locations within the urban growth boundary. The designation and zoning of additional climate friendly area shall comply with all applicable requirements for climate-friendly areas as provided in OAR 660-012-0310 through OAR 660-012-0325.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.012, ORS 197.475 - 197.490, ORS 197A.015-197A.470

ADOPT: 660-008-0120

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: Plan designations that allow or require residential uses shall be assigned to all buildable land. The plan designations assigned to buildable land shall be specific so as to accommodate the varying housing types and densities identified in the local housing needs projection.

CHANGES TO RULE:

660-008-0120

Specific Plan Designations Required

(1) Plan designations that allow or require residential uses shall be assigned to all buildable land. Such designations may allow nonresidential uses as well as residential uses. Such designations may be considered to be "residential plan designations" for the purposes of this division. The plan designations assigned to buildable land shall be specific so as to accommodate the varying housing types and densities identified in the local housing needs projection.

(2) A local government may defer the assignment of specific residential plan designations only when the following conditions have been met:

(a) Uncertainties concerning the funding, location and timing of public facilities have been identified in the local comprehensive plan;

(b) The decision not to assign specific residential plan designations is specifically related to identified public facilities constraints and is so justified in the plan; and

(c) The plan includes a time-specific strategy for resolution of identified public facilities uncertainties and a policy commitment to assign specific residential plan designations when identified public facilities uncertainties are resolved.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.475 - 197.490, ORS 197A.015 - 197A.470

ADOPT: 660-008-0125

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: A local government may defer rezoning of land within an urban growth boundary to maximum planned residential density provided that the process for future rezoning is reasonably justified.

CHANGES TO RULE:

660-008-0125

The Rezoning Process

A local government may defer rezoning of land within an urban growth boundary to maximum planned residential density provided that the process for future rezoning is reasonably justified. If such is the case, then:

(1) The plan shall contain a justification for the rezoning process and policies which explain how this process will be used to provide for needed housing.

(2) Standards and procedures governing the process for future rezoning shall be based on the rezoning justification and policy statement, and must be clear and objective and meet other requirements in OAR 660-008-0015.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.015 - 197A.470, ORS 197.475 - 197.490

RULE SUMMARY: The Housing Production Strategy is a plan of action to address needed housing as identified in the Contextualized Housing Need. This rule describes the required elements and structure of the Housing Production Strategy, including a summary of community engagement and commitments to specific actions.

CHANGES TO RULE:

660-008-0200

Housing Production Strategy Structure

As provided in ORS 197A.100, a city must develop and adopt a housing production strategy. The housing production strategy is a comprehensive city-wide action plan encompassing all domains in a city's control to promote housing production, affordability, and choice. A city must work interdepartmentally to the extent possible in developing and implementing the housing production strategy and the associated engagement work, including but not limited to collaboration across the planning, permitting, and community development departments. At a minimum, the housing production strategy must include the contextualized housing need as directed by OAR 660-008-0075 and the following components:¶

(1) Equitable Engagement - In addition to, or as part of, the equitable engagement undertaken for the contextualized housing need under OAR 660-008-0075(5), a housing production strategy must include equitable engagement specific to developing the housing production strategy and in particular the selection of the actions as provided in section (2) and the assessment of benefits and burdens as provided in subsection (2)(b)(K). ¶

(a) A city must solicit feedback from producers of needed housing, and particularly those who represent or serve communities of color, low-income communities, individuals with disabilities, and tribal communities, including tribal governments to ensure these perspectives are meaningfully incorporated. A city may refer to the department's Equitable Engagement Toolkit to employ best practices regarding equitable engagement.¶

(b) A city must utilize any relevant engagement feedback from the contextualized housing need under OAR 660-008-0075(5). ¶

(c) A city must provide an equitable engagement summary as part of the housing production strategy. The equitable engagement summary must include:¶

(A) A list and description of the types of interested parties and communities who comprise producers of needed housing who represent or serve protected classes and named communities in needed housing as provided in ORS 197A.018, especially with regard to those to represent and serve communities of color, low-income communities, individuals with disabilities, and tribal communities.¶

(B) The list of tribes as provided in OAR 660-008-0075(5)(c)(B). A city satisfies the engagement requirement to center tribal communities in this rule when:¶

(i) Notice has been made to all tribes as identified in paragraph (B) by inviting government-to-government consultation and staff coordination in the development of the city's housing production strategy, and¶

(ii) Follow up communication, consultation, and coordination as requested by the tribes regarding the housing production strategy is complete.¶

(C) A summary of how the city engaged interested parties, communities, and tribes identified in paragraphs (A) and (B), including why they were engaged, engagement methods used, a list of each engagement effort or event being used to select the actions in the housing production strategy and assess the benefits and burdens analysis as provided in subsection (2)(b)(K), and the interested parties, communities, or tribes identified in paragraphs (A) and (B) who the city believes may still be underrepresented in this process;¶

(D) A summary of feedback received from each engagement effort or event, as well as a description of the major feedback themes attributed to the likely impacted interested parties, communities, and tribes identified in paragraphs (A) and (B). A city must determine whether each major feedback theme influenced the selection of actions in the housing production strategy in alignment with program principles or not. If a feedback theme influenced the selection of action or actions, it must be documented. If a theme did not influence the selection of action or actions, the city must provide a rationale explaining why.¶

(E) An evaluation of how to improve equitable engagement practices for future housing engagement efforts conducted by the city, including but not limited to improvements in affirmatively furthering fair housing and tribal coordination and consultation.¶

(2) Actions to Meet Current and Future Housing Need - A housing production strategy must include a list of specific actions that ensure the opportunity for and promote the provision of needed housing to meet the housing production target, by affordability bracket, with net new units for the city's six- or eight-year housing production strategy cycle. The provision of needed housing includes its development, preservation, rehabilitation, adaptation, and maintenance while also affirmatively furthering fair housing by maximizing benefits and minimizing burdens

for protected classes and named communities in needed housing as provided in ORS 197A.018, with particular focus on communities of color, low-income communities, individuals with disabilities, and tribal communities. The housing production strategy must demonstrate that the identified actions collectively support the city's needed housing types, characteristics, and locations as identified through the contextualized housing need as provided in OAR 660-008-0075. A housing production strategy may identify actions including, but not limited to, those described in ORS 197A.100(3), actions listed in the Housing Production Strategy Guidance for Cities published by the commission under Attachment B. The housing production strategy must include:

(a) A review of actions already implemented that includes:

(A) The city's most recently completed survey to meet the requirements of ORS 197A.115; and

(B) A reflection on each action in the survey in paragraph (A) and its efficacy in producing net new needed housing types, characteristics, and locations and in remedying or mitigating the fair housing issue or issues the action was intended to respond to. This reflection must include a review of:

(i) The housing production dashboard;

(ii) The housing equity indicators; and

(iii) For cities subject to OAR 660-012-0315(1) or cities within Metro Region 2040 Centers as defined in OAR 660-012-0005(24), housing developed in compact, mixed-use areas as provided in OAR 660-012-0905 or included in an approved land use and transportation scenario plan as provided in OAR 660-044-0050 or OAR 660-044-0120.

(b) A report outlining each action in the housing production strategy. For each action, this report must include:

(A) A title and description of the action chosen;

(B) A title and description of the alternate action chosen, if any;

(C) The identification number from the Housing Production Strategy Guidance for Cities. For any action not listed in the Housing Production Strategy Guidance for Cities under Attachment B, the city must provide an explanation as to how the action will address the identified housing needs and fair housing issues as effectively as or more effectively than relevant actions from the Housing Production Strategy Guidance for Cities under Attachment B;

(D) An adoption year for the action, if applicable;

(E) A year for when the action will be implemented;

(i) Cities must consider the sequencing of actions when establishing implementation timelines. Actions shall be scheduled to maximize benefits and minimize burdens, ensuring that their timing aligns with and complements other actions for the most beneficial overall impact.

(ii) Sequencing decisions shall consider in particular the benefits and burdens of communities of color, low-income communities, individuals with disabilities, and tribal communities.

(F) A time frame over which the action is expected to begin meeting housing need;

(G) The action's expected magnitude of impact on the development of needed housing over the six- or eight-year housing production target horizon;

(H) A description of critical steps that all relevant staff and departments of the city and other interested parties and partners must take to implement the action;

(I) A description of how the city will assess and track the results of the action;

(J) The housing need met in terms of:

(i) Any fair housing issues the action is expected to mitigate or resolve;

(ii) The needed housing types the city expects the action to produce;

(iii) The needed housing characteristics the city expects the action to produce, including at a minimum tenure and affordability per the income brackets provided in ORS 184.453(4);

(iv) The needed housing locations the city expects the action to produce; and

(v) The major feedback theme the action is responsive to;

(K) An analysis of the income and demographic populations that the city anticipates to receive benefit or burden from the action, including but not limited to:

(i) Low-income communities;

(ii) Communities of color;

(iii) Individuals with disabilities; and

(iv) Tribal communities; and

(L) The names of any complementary actions in the housing production strategy or other implementation details specifically intended to pair with this action in order to strengthen needed benefits or mitigate burdens.

(c) Delinquent Actions - The city must include any actions from the most recently adopted or amended housing production strategy which were not completed during the previous housing production strategy cycle in the current housing production strategy along with an implementation year prior to the city's midpoint report due date. Delinquent actions from the previous housing production strategy cycle are ineligible for requests for timeline extensions and replacement actions in the midpoint report and review.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.012, ORS 197A.015 - 197A.470

ADOPT: 660-008-0210

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: The Department will develop adoption ready actions for use in guidance, safe harbors, or minimum standards in 2025.

CHANGES TO RULE:

660-008-0210

Adoption Ready Actions

The department must adopt adoption ready actions in 2025 for use in guidance, safe harbors, or minimum standards.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.025

ADOPT: 660-008-0215

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: This rule outlines the requirements and procedures cities must follow when submitting their adopted or amended Housing Production Strategy to the department.

CHANGES TO RULE:

660-008-0215

Review of Housing Production Strategies

- (1) No later than 20 days after a city's adoption or amendment of a housing production strategy under ORS 197A.100, a city must submit the adopted or amended housing production strategy to the department.¶
- (2) On the same day the city submits notice of the adopted or amended housing production strategy to the department, the city must provide a notice to persons who participated in the proceedings that led to the adoption or amendment of the housing production strategy and requested notice in writing.¶
- (3) Within ten days of receipt of the submission under section (1), the department must provide notice to persons as provided in ORS 197.615(3).¶
- (4) Notices given under sections (2) and (3) must state:¶
 - (a) How and where materials described under section (5) may be freely obtained;¶
 - (b) That comments on the housing production strategy may be submitted to the department within 45 days after the department has received the submission under section (1); and¶
 - (c) That there is no further right of appeal of the department's decision under section (7).¶
- (5) The submission under section (1) must include copies of:¶
 - (a) The signed decision adopting or amending the housing production strategy;¶
 - (b) The text of the housing production strategy as provided in OAR 660-008-0200, and any amendments to the most recent housing production strategy submitted under section (1); and¶
 - (c) A brief narrative summary of the housing production strategy.¶
- (6) The department shall review the sufficiency of the housing production strategy based upon the following:¶
 - (a) Requirements provided in OAR 660-008-0075 to 660-008-0210, and¶
 - (b) Other attributes that the commission considers relevant.¶
- (7) The department shall, within 120 days after receiving the submission under section (1):¶
 - (a) Approve the housing production strategy;¶
 - (b) Approve the housing production strategy, subject to further review and actions recommended by the department based on its review under section (6); or¶
 - (c) Remand the housing production strategy for further modification as identified by the department.¶
- (8) A department determination under section (7) is not a land use decision and is final and not subject to appeal.¶
- (9) The department will maintain an annual summary of proposed actions included in housing production strategies submitted under section (1) and midpoint reports submitted under OAR 660-008-0230.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.012, ORS 197A.015 - 197A.470

ADOPT: 660-008-0230

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: The purpose of the midpoint report and review is for both the city and the department to assess the progress and implementation of the actions in the Housing Production Strategy according to the adoption and implementation timeline of each action. This rule directs the midpoint reporting requirements and Department review regarding the Housing Production Strategy's implementation.

CHANGES TO RULE:

660-008-0230

Midpoint Reporting on Housing Production Strategy Implementation

(1) Cities required to adopt a housing production strategy under ORS 197A.100(1), must submit a midpoint report to the department for review and comment based on the following schedule:¶

(a) For cities that are within Metro, no later than December 31st three years after the city adopted a housing production strategy; or¶

(b) For cities that are not within Metro, no later than December 31st four years after the city adopted a housing production strategy.¶

(2) The midpoint report a city submits under section (1) must include the following:¶

(a) A summary of the actions already taken by the city to implement the actions to meet current and future housing need adopted in the city's most recently adopted or amended housing production strategy and actions which were scheduled for implementation after the last midpoint report from the previous housing production strategy cycle, and¶

(b) A report illustrating the ongoing monitoring of any fair housing issue areas where no fair housing issues were identified in the most recent contextualized housing need as provided in OAR 660-008-0075(1)(d).¶

(3) Within ten days of receipt of the submission under section (1), the department must provide notice to persons as provided in ORS 197.615(3).¶

(4) If the city has not implemented any actions to meet current and future housing need on the schedule most recently adopted or amended for the current housing production strategy cycle or for actions which were scheduled for implementation after the last midpoint report from the previous housing production strategy cycle, the midpoint report may include an explanation of the circumstances or factors that posed a barrier to implementation and a requested implementation timeline extension for good cause that includes:¶

(a) A revised implementation date which does not extend beyond the city's subsequent housing production strategy deadline under OAR 660-008-0045(6); or¶

(b) A requested replacement action or actions that includes:¶

(A) A revised implementation date which does not extend beyond the city's subsequent housing production strategy deadline under OAR 660-008-0045(6);¶

(B) A demonstration that the replacement action addresses the same identified housing need as the replaced action.¶

(C) A demonstration that the anticipated magnitude of impact of the replacement action or actions is equivalent or greater than the anticipated magnitude of the replaced action.¶

(D) A resolution of support for this replacement from the governing body, and¶

(E) Notice to persons who participated in the proceedings that led to the adoption of the housing production strategy and requested notice in writing.¶

(5) Upon submittal of the midpoint report developed under section (1), the department will review the report for consistency with the housing production strategy approved under criteria provided in OAR 660-008-0215(6). The department will also evaluate requests for implementation timeline extensions and replacement actions as applicable.¶

(6) The department will issue midpoint review letters by May 1 of the year following the midpoint report deadline. Should the department find the midpoint report submitted under section (1) does not substantially comply with the criteria in OAR 660-008-0215(6) or should the department reject a request under section (4), the department may take action identified in OAR 660-008-0315.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.012, ORS 197.615, ORS 197A.015-197A.470

ADOPT: 660-008-0240

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: This rule describes the obligation of Metro and other regional governments or bodies may to develop Housing Coordination Strategies per ORS 197A.365.

CHANGES TO RULE:

660-008-0240

Housing Coordination Strategy

Metro must, and other regional governments or bodies may, develop housing coordination strategies as provided in ORS 197A.365.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.274, ORS 197A.015 - 197A.470

ADOPT: 660-008-0300

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: In addition to the purpose statement described in OAR 660-008-0000, OAR 660-008-0300 to OAR 660-008-0335 are intended to operationalize the housing acceleration program under ORS 197A.130 and provide a clear and consistent framework by which cities comply with Goal 10 and take action to address identified barriers to housing production, affordability, and choice.

CHANGES TO RULE:

660-008-0300

Housing Acceleration Program Purpose

In addition to the purpose statement in OAR 660-008-0000, OAR 660-008-0300 to OAR 660-008-0335 are intended to operationalize the housing acceleration program under ORS 197A.130 and provide a clear and consistent framework by which cities comply with Goal 10 and take action to address identified barriers to housing production, affordability, and choice.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.130

ADOPT: 660-008-0310

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: DLCD must refer cities to the Housing Acceleration program that fail to adopt an HPS by the statutory deadline. Rule includes actions the department may take to remediate delinquency prior to referral, and process by which a city may be referred.

CHANGES TO RULE:

660-008-0310

Referral for Non-Compliance in Adoption of Housing Capacity Analysis and Housing Production Strategy

A city is required to adopt a housing capacity analysis and housing production strategy under OAR 660-008-0045.

The department is required to annually refer to the housing acceleration program each city that has failed to adopt a housing production strategy under ORS 197A.130(3)(b). To minimize and remedy delinquency in completing these requirements by the prescribed deadlines, the department must refer a city for non-compliance in the adoption of a housing capacity analysis or housing production strategy via the following provisions:¶

(1) A city that determines it will be unable to adopt a housing capacity analysis, housing production strategy report, or midpoint report by the prescribed deadline may request that the department provide a time extension for good cause. The city must notify the department of the expected delinquency at least 60 days before the applicable deadline for a housing capacity analysis or housing production strategy. In response, the department may take any of the following actions:¶

(a) For a housing capacity analysis, provide written authorization for the city to adopt concurrently with a housing production strategy by the deadline provided in ORS 197A.100(1);¶

(b) Recommend an amended deadline to the commission for a housing capacity analysis or housing production strategy under OAR 660-008-0045;¶

(c) Review components of a housing capacity analysis, response to an identified deficiency, or housing production strategy under OAR 660-025-0185; or¶

(d) Within 90 days, enter into a voluntary agreement to remedy the delinquency outlining specific actions, timelines, and resources necessary to adopt a housing capacity analysis or housing production strategy.¶

(2) The department must refer a city that has not adopted a housing capacity analysis or housing production strategy by the prescribed deadline, received a time extension for good cause under section (1), or fulfilled the actions and deadlines of a work plan or agreement under section (1) to the housing acceleration program.¶

(3) For cities referred to the housing acceleration program under subsection (2), the department must conduct an audit under OAR 660-008-0325 and enter into a housing acceleration agreement under OAR 660-008-0330 focused only on the local barriers to the adoption of a housing production strategy and all supporting documents.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.100, ORS 197A.130

ADOPT: 660-008-0315

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: DLCD must refer cities to the Housing Acceleration program that fail to undertake an HPS Action by the adopted deadline. Rule includes actions the department may take to remediate delinquency prior to referral, and process by which a city may be referred.

CHANGES TO RULE:

660-008-0315

Referral for Non-Compliance in Undertaking Actions in a Housing Production Strategy

A city is required to undertake actions in a housing production strategy by the deadline under ORS 197A.100(4). The department is required to annually refer each city to the housing acceleration program at its midpoint that has not taken actions adopted in its housing production strategy under ORS 197A.130(3)(c).

(1) The department will not refer a city to the housing acceleration program under this provision if the city has received either or both:

(a) An extension for good cause under OAR 660-008-0230(4)(a)(A);

(b) Department approval to undertake a replacement action or actions in the housing production strategy under OAR 660-008-0230(4)(b)(B).

(2) The department must refer a city that has not undertaken the action by the revised deadline under OAR 660-008-0230(4) and is not exempt from referral under section (1) to the housing acceleration program pursuant to ORS 197A.130(3)(c).

(a) Referral under this section may only occur after the submittal and department evaluation of a midpoint report.

(b) The department will evaluate implementation of and progress on all actions included in an adopted housing production strategy since the previous midpoint report.

(3) For cities referred under section (2), the department must conduct an audit under OAR 660-008-0325 focused only on:

(a) The action or actions that the city has failed to undertake;

(b) The housing needs addressed by the action or actions;

(c) Other actions taken by the city to address the needs; and

(d) Any additional proportionate actions that may be necessary to address the needs, in lieu of the action or actions in subsection (a).

(4) A housing acceleration agreement developed under OAR 660-008-0330 to address failure of a city to undertake an action may only include needed proportionate actions necessary to address an outstanding housing need resulting from the failure to undertake an action or actions under this rule.

(5) A city submitting materials to the department under OAR 660-008-0325(2), may provide the department the following materials for consideration in the audit:

(a) Any specific actions the city has taken to address the need in lieu of the action or actions proposed in the housing production strategy; and

(b) Any alternative actions the city could take to proportionately address the need.

(6) If a city is also referred to the housing acceleration program under OAR 660-008-0320, the department must consolidate the audit under section (3) and agreement under section (4) into a single process, consistent with the deadlines under ORS 197A.130.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.130

RULE SUMMARY: DLCD to refer cities that are underperforming on their housing production targets, relative to the region and market peers. This rule sets out a framework by which DLCD determines the eligibility of cities for referral based on their progress towards housing production targets on OHCS' housing production dashboard, then prioritizes referral of cities up to DLCD's capacity.

CHANGES TO RULE:

660-008-0320

Referral based on Performance at the Housing Production Strategy Midpoint Report

The department is required to determine the lowest performing cities, if any, on an annual basis. To provide a consistent and predictable framework by which the department dedicates staff time and resources to implementing this rule, the department must refer any lowest performing city to the housing acceleration program via the following process:

(1) The department must annually determine the maximum number of both standard and comprehensive audits completed under this rule within a calendar year, in consideration of the following factors:

(a) The capacity of department staff to conduct audits under OAR 660-008-0325, develop housing acceleration agreements under OAR 660-008-0330, and support local implementation of housing acceleration agreements as specified in ORS 197A.130(7);

(b) The number of housing capacity analyses due under OAR 660-008-0045;

(c) The number of housing production strategies due under OAR 660-008-0045;

(d) The number of midpoint reports due under OAR 660-008-0230;

(e) The number of referrals to the housing acceleration program related to the implementation of housing production strategies made under OAR 660-008-0310 to OAR 660-008-0315, including its impact on subsection (a) of this section;

(f) The availability of funding to support the implementation of actions identified in a housing acceleration agreement developed in response to an audit;

(g) Whether the department or cities with a population of 10,000 or greater are subject to separate housing-related legislation, administrative rule, or orders that obligate capacity and funding for implementation, including but not limited to rulemaking or local comprehensive plan or development code amendments; and

(h) For audits requesting concurrent review under ORS 197A.205, the capacity of the Housing and Community Services Department to concurrently participate in and support audits. The department must consult with the Housing and Community Services Department in determining capacity under this section.

(2) The department must annually determine which cities, if any, are eligible for referral to the housing acceleration program. Eligible cities must meet the following criteria:

(a) The city was required to submit a midpoint report within the same year under OAR 660-008-0230; and

(b) The city is underperforming on its total housing production target or its housing production target for household incomes at or below 80 percent area median income, which includes:

(A) The city is not meeting its total housing production target and is performing below the 50th percentile in comparison to the region or market peers, as determined by the housing production dashboard; or

(B) The city is not meeting its housing production target for incomes at or below 80 percent area median income and is performing below the 50th percentile in comparison to the region or market peers, as determined by the housing production dashboard.

(C) For the purposes of determining comparative progress for referral under this section, the department will utilize a city's adopted housing production target and market peers determined for the adoption year of the housing production strategy under OAR 660-008-0045. Where a city does not have an adopted housing production target, the department will use the most recently published housing production target under ORS 184.455.

(3) Where a city does not have market peers for comparison as provided under ORS 456.601, the department will consider progress relative to the region only.

(4) Among eligible cities, the department must remove from consideration a city that had been referred to the housing acceleration program under this section at the previous midpoint report.

(5) The department must prioritize the referral to the housing acceleration program of cities determined eligible under section (2) and (3), up to the maximum number of audits determined under section (1), based on each of the following priority considerations:

(a) Severity of underproduction of total housing units, in comparison to the region and market peers as

determined by the housing production dashboard;¶

(b) Severity of underproduction of housing affordable to households earning at or below 80 percent area median income, in comparison to the region and market peers as determined by the housing production dashboard. In determining prioritization for referral to the Housing Acceleration program, the department will consider the severity of underproduction at each of the following income levels:¶

(i) Housing affordable to households making less than 30 percent of area median income;¶

(ii) Housing affordable to households making 30 percent or more and less than 60 percent of area median income; ¶

(iii) Housing affordable to households making 60 percent or more and less than 80 percent of area median income; and¶

(iv) Housing affordable to households making 80 percent or more and less than 120 percent of area median income.¶

(c) Housing equity indicators as they relate to fair housing issues identified under OAR 660-008-0075.¶

(6) The department shall prioritize comprehensive audits under OAR 660-008-0325(4) where the priority considerations in section (5) indicate a need for a contextual audit under OAR 660-008-0325 or coordinated action from multiple public bodies. Priority actions include one or more of the following:¶

(a) Removing barriers to the development of housing affordable to households earning at or below 80 percent area median income;¶

(A) For referrals of cities to the housing acceleration program under this subsection, the department must request concurrent review by the Housing and Community Services Department.¶

(B) Nothing in this subsection prohibits the department from coordinating with the Housing and Community Services Department for any referral to the housing acceleration program.¶

(b) Addressing or improving fair and equitable housing outcomes or addressing barriers to fair housing choice.¶

(7) The department may refer to the housing acceleration program less than the maximum number of audits determined under section (1) when the number of eligible cities determined under sections (2) and (3) is less than the maximum determined under section (1).

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.130

ADOPT: 660-008-0325

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: This rule sets out the process, inputs, and outputs of an audit conducted by DLCD for a city referred into the Housing Acceleration program.

CHANGES TO RULE:

660-008-0325

Department Audit for Cities Referred into the Housing Acceleration Program

For cities referred to the housing acceleration program under ORS 197A.130(3), within six months of issuance of public notice of referral under section (1), the department must, in cooperation with the city, complete an audit of specific housing barriers.¶

(1) The department must provide public notice of referral for each city referred to the housing acceleration program under OAR 660-008-0310 to OAR 660-008-0320, to notice recipients under OAR 660-008-0215, to all tribes as identified under OAR 660-008-0075(5)(c)(B), and to affected public bodies by July 1 of each calendar year. The notice must include:¶

(a) Findings documenting the basis of referral for each city referred to the housing acceleration program, including one or more of the following:¶

(A) Failure to adopt a housing capacity analysis, housing production strategy, or midpoint report as provided under OAR 660-008-0310:¶

(B) Failure to undertake an action or actions in an adopted housing production strategy as provided under OAR 660-008-0315:¶

(C) Referral to the housing acceleration program by the commission under ORS 197A.130(3)(d); or¶

(D) Referral to the housing acceleration program based on city performance as provided under OAR 660-008-0320.¶

(b) A description of the housing acceleration program and procedures provided in this rule:¶

(c) Any required actions or materials that a referred city must complete or submit to the department under section (2) and how and where these materials may be freely obtained by the public:¶

(d) That the public may submit comment to the department within 45 days of notice provided under section (3); and¶

(e) That actions taken by the city or the department under the housing acceleration program are not land use decisions and are not subject to appeal or review.¶

(f) For notice to tribes, specific and direct outreach to each of the tribes as identified under OAR 660-008-0200(1)(c)(B) by inviting government-to-government consultation from tribal leadership and coordination from tribal staff regarding the identification of barriers to housing production in the audit.¶

(2) For all audits, within 45 days of public notice of referral to the housing acceleration program, a referred city must provide the notice of referral to the governing body of the city and submit to the department the following information, if available and relevant to the basis for referral:¶

(a) The adopted housing capacity analysis, housing production strategy, adoption record including all public testimony, and midpoint report, if not already submitted to the department. A city referred to the housing acceleration program under OAR 660-008-0310 may submit any available draft materials related to an impending housing production strategy:¶

(b) Information related to actions and inactions that impact local fair and equitable housing outcomes, environmental justice, climate resilience and location choice that is not otherwise captured in the housing production strategy:¶

(c) Any summary materials related to engagement conducted by the city that is not otherwise captured in the housing production strategy:¶

(d) Information related to current funding and staff capacity of the city, including publicly-available departmental budget and staffing information:¶

(e) Any localized information or studies related to housing market dynamics such as localized market pricing and rents, local housing development dynamics, or other market-related factors that are not otherwise captured by state data sources, if available:¶

(f) Information related to the local development of housing development at or below 80 percent of average median income, including local development contacts, local funding programs/investments, or recent development projects, if available:¶

(g) Information related to the local development of housing, including:¶

(A) Land use planning regulations, including zoning and development code:¶

(B) Permitting and approval processes relating to development of housing and infrastructure supporting

housing;¶

(C) Required fees, exactions, and improvements; and¶

(D) Any public facilities plans, capital improvement plans, or actions or investments to prepare land for residential development;¶

(h) Any potential barriers or issues that the city requests consideration by the department in the audit, including but not limited to:¶

(A) Local resource deficiencies, including staffing, public facilities, capital improvements to infrastructure, availability of buildable lands, and actions or investments to prepare land for development;¶

(B) Specific additional state resources that could support housing production;¶

(C) Any state laws or rules or the regulations, policies, actions or inactions of any public body that could impact housing production; and¶

(D) Other factors limiting housing that are not within the city's control.¶

(i) Where a city does not have access to or fails to provide suitable information under this section, the department may utilize best available information to support the findings of an audit;¶

(j) Nothing in this section prohibits the department from utilizing other sources of relevant data or information, including but not limited to information collected under sections (3) and (4).¶

(3) For all audits, within ten days of receipt of the submission under section (2), the department must compile submitted information and notify recipients under section (1) that public comment may be submitted to the department within 45 days of the notice date. The department must:¶

(a) Provide in a publicly available format any relevant audit materials, including the notice provided under section (1) and materials submitted under section (2)¶

(b) Instructions for delivering public comment to the department; and¶

(c) Append any comments submitted within 45 days to the audit published under section (6).¶

(4) For comprehensive audits, in addition to public comment under section (3), the department must solicit and consider additional contextual information to support audit findings, which may include:¶

(a) In consideration of engagement summaries submitted under subsection (2)(c), supplemental equitable engagement and invited feedback from interested parties, including but not limited to:¶

(A) City staff and public officials;¶

(B) Local or regional market-rate housing developers;¶

(C) Local or regional subsidized affordable housing developers;¶

(D) Local or regional community-based and non-governmental organizations;¶

(E) Community members, including those described under OAR 660-008-0200(1) and (2)(b)(K); ¶

(F) Other relevant public bodies that affect housing production within the city; ¶

(G) Tribal governments within the region, if any; and¶

(H) Other relevant market or affordable housing-related actors that affect housing production within the city, including lenders, laborers, and occupants.¶

(b) Engagement and coordination with affected public bodies on barriers or issues that extend beyond a city's control, including:¶

(A) County or regional coordination as it relates to urbanization and regional programs and resources, including Metro for cities within Metro;¶

(B) Special district and utility coordination as it relates to the provision of public facilities to support housing production; and¶

(C) State agency coordination as it relates to policies and programs that affect housing production within a city.¶

(c) For audits focused on affordable housing production, concurrent review with the Housing and Community Services Department. In addition to the materials submitted under section (2), the department may require the following additional information from a city, if available:¶

(A) Any contextual information related to affordability not reflected in statewide housing data, including but not limited to naturally occurring affordable housing, tenant assistance or vouchers, or homeownership programs; or¶

(B) Information related to subsidized affordable housing development proposals and inquiries, including any contact information, permitting information, and public record information relating to development application approvals or denials;¶

(i) For cities within Metro, the previous six calendar years.¶

(ii) For cities outside of Metro, the previous eight calendar years.¶

(d) Nothing in this section prohibits the department from soliciting or considering additional contextual information or invited stakeholder feedback for audits that are not comprehensive audits.¶

(5) In conducting the audit, the department must evaluate and prioritize the following, including the provision of resources and intergovernmental coordination to support local actions related to:¶

(a) Existing and expected barriers to fair housing choice, including barriers contributing to fair housing issues identified under OAR 660-008-0075 in the most recently adopted or amended housing production strategy¶

- (b) Adoption-ready actions under OAR 660-008-0210 to address identified barriers to housing production, affordability, and choice.
- (c) Barriers to housing production in climate-friendly areas under OAR 660-012-0310.
- (d) Acceleration of total production and production of housing affordable to households earning at or below 80 percent area median income, compared to the city's previous housing production strategy cycle and relative to the region and market peers as determined by the housing production dashboard. Pursuant to data availability, the department will consider acceleration of production at each of the following income levels:
 - (i) Housing affordable to households making less than 30 percent of area median income;
 - (ii) Housing affordable to households making 30 percent or more and less than 60 percent of area median income;
 - (iii) Housing affordable to households making 60 percent or more and less than 80 percent of area median income;
 - (iv) Housing affordable to households making 80 percent or more and less than 120 percent of area median income.
- (6) Within six months of public notice issued under section (1), the department must publish an audit of specific housing barriers, including those identified in the contextualized housing need under OAR 660-008-0075. The audit that must include an analysis of the factors provided in ORS 197A.130(4). For each identified barrier, the audit must contain:
 - (a) A description of the identified barrier, including a description of how the barrier relates to the city's basis for referral to the housing acceleration program. The department must consider existing and expected local barriers as it relates to identified fair housing issues in the contextualized housing need analysis under OAR 660-008-0075.
 - (b) An evaluation of factors that may affect or relate to an identified barrier, including:
 - (A) Market conditions and factors related to or affecting the barrier;
 - (B) City context, including existing actions, investments, policies, or programs related to the barrier and an evaluation of city funding and staff capacity to undertake additional action;
 - (C) Regional context, including actions, investments, policies, or programs of relevant local or regional public bodies that affect the barrier, if applicable; and
 - (D) Statewide context, including actions, investments, policies, or programs of relevant statewide public bodies that affect the barrier, if applicable;
 - (c) Identified regional, state, and federal orders, agreements, actions, programs, or investments that could support or hinder local action to addressing the identified barriers, if any;
 - (d) An identification of relevant actions proposed in the existing housing production strategy and evaluation of the efficacy of the action or actions to address identified barrier;
 - (e) If the barrier can be partially or wholly addressed via city action, one or more alternative actions provided by the department that can address the identified barrier. Any action provided under this section must include:
 - (A) A description of the action, including any relevant case studies, resources, or adoption-ready policies furnished by the department;
 - (B) An evaluation of the approximate funding and staff capacity necessary to undertake the action;
 - (C) An evaluation of the city's proportionate financial resources and staff capacity to undertake an action;
 - (D) If the action requires multiple public bodies for implementation, a description of the public bodies and concurrent actions necessary for local implementation; and
 - (E) An evaluation of the approximate magnitude of impact that the action will likely have on the identified barrier.
- (7) For each barrier identified in the audit, the department must determine whether the factors affecting housing production, affordability, and choice are a consequence of policies and practices that are directly within the city's control under ORS 197A.130(8)(a). Actions identified under subsection (6)(e) are directly within a city's control if the action:
 - (a) Is within the jurisdictional control of the city;
 - (b) Can reasonably be implemented with available city resources and staff capacity identified under paragraph (6)(e)(C), supported by technical and financial assistance provided by the department; and
 - (c) The department can sufficiently provide technical and financial assistance necessary to support city implementation.
- (8) Where the department concludes under section (7) that a city lacks reasonable existing resources and staff capacity to implement actions to address an identified barrier, the audit must also include and prioritize actions that build city capacity, including consideration of:
 - (a) Any identified state or federal programs or investments that can increase local capacity; and
 - (b) Existing and projected city revenue that can increase local capacity, including actions that increase or stabilize local revenue or dedicate funds for increased local capacity.

- (9) After the department publishes an audit under section (6) it shall notify all parties described in section (1) through (4) and provide access to the published audit in a publicly available format. The city must provide the published audit to the governing body of the city.
- (10) Any local government may voluntarily request the department conduct an audit of local, regional, or state barriers.
- (a) A request by a local government or city may be submitted to the department at any time. The request must specify:
- (A) The scope of issues or barriers the audit is intended to address;
 - (B) The preferred timeframe for an audit to occur;
 - (C) Any relevant local or regional governments or state agencies that relate to the identified issue or issues; and
 - (D) How the request relates to current or future work the local government or city will complete, including an adopted or future housing production strategy.
- (b) If the department accepts the request, the requirements of ORS 197A.130 and OAR 660-008-0325 to OAR 660-008-0335 do not apply, and the findings of the audit are non-binding on the department and the local government or city.
- (c) In considering whether to approve a request made under this section, the department must prioritize:
- (A) Mandatory referrals to the housing acceleration program made under OAR 660-008-0310 to 660-008-0320;
 - (B) Supporting the implementation of an existing or future housing production strategy under ORS 197A.100;
 - (C) Addressing substantial issues that inhibit housing production, affordability, and choice or best advances the purpose described in OAR 660-008-0000, and
 - (D) Issues or barriers that are most readily addressed by an audit or intervention by the department.
- (d) In lieu of an audit, the department may provide alternative options to a local government or city to address an identified issue or issues in an audit request, including the provision of technical or financial support, as available.
- (e) Nothing in this section prohibits the department from making mandatory referrals to the housing acceleration program under ORS 197A.130(3).
- (11) As part of the summary of housing production strategies under OAR 660-008-0215(9), the department will incorporate a summary of any state policies or programs identified in audits conducted under OAR 660-008-0325.
- (12) The department may grant limited extensions to any of the deadlines of this rule for emergencies, good cause, or other factors outside of the city's control. Upon a request for a timeline extension, the department must provide a written decision within 30 days of the request, including the rationale for the extension and a revised timeline.
- Statutory/Other Authority: ORS 197.040
- Statutes/Other Implemented: ORS 197A.130

ADOPT: 660-008-0330

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: This rule sets out the framework, structure, and commitments outlined in a Housing Acceleration Agreement.

CHANGES TO RULE:

660-008-0330

Housing Acceleration Agreement

Within six months following an audit completed under OAR 660-008-0325, the city and the department must enter into a housing acceleration agreement that is based on and proportionate to the city's basis for referral to the housing acceleration program under OAR 660-008-0310 to OAR 660-008-0320.

(1) The director and the city must sign a housing acceleration agreement within six calendar months of the publication of the audit under OAR 660-008-0325.

(a) The governing body of a city may designate an authorized representative to sign the agreement.

(b) The department must provide for at least a 90-day period for city review of a draft agreement before the deadline under this section. The department must grant a time extension to provide a 90-day period for city review if the department does not provide a draft agreement as provided in this subsection.

(c) The city must adopt a housing acceleration agreement as an appendix to the consequent or subsequent housing production strategy adopted as provided in section (3) and (4). Nothing in this section prohibits a city from entering a housing acceleration agreement and amending a housing production strategy concurrently.

(2) The housing acceleration agreement must specify actions, parameters, and timelines by which the department and the city respond to barriers identified in the audit published under OAR 660-008-0325.

(a) The department must agree to provide the following as necessary to support the city in the implementation of an action or actions specified in an agreement:

(A) Technical assistance, regulatory support, and other assistance;

(B) Financial or funding support available to the department in consideration of city funding needs identified under OAR 660-008-0325(6); and

(C) Assistance in pursuing other state or public funds in consideration of city funding needs identified under OAR 660-008-0325(6).

(b) The city must agree to take actions specified in sections (3) and (4) that proportionally address each barrier within the city's control as identified in OAR 660-008-0325(6), which may include:

(A) One or more of the actions proposed in the existing housing production strategy as identified in OAR 660-008-0325(6)(d).

(B) One or more of the alternate actions identified in OAR 660-008-0325(6)(e) to address a barrier identified in an audit; or

(C) An alternate action or actions to those identified in OAR 660-008-0325(6)(e). The city must demonstrate that the alternate actions address the identified barrier or barriers on an equivalent and proportionate basis to actions identified in OAR 660-008-0325(6)(e).

(c) The department or the city may coordinate, mediate, or enter into agreements with other public bodies to fulfill actions included in a housing acceleration agreement.

(3) If the published audit conducted under OAR 660-008-0325(7) determines that the factors affecting housing production, affordability, and choice for an identified barrier are a consequence of policies and practices that are directly within the city's control, the city must adopt an amended housing production strategy within six months of the execution date of the housing acceleration agreement that includes:

(a) A timeline for performance under ORS 197A.100(4) of no less than one year;

(b) Specific city actions, which may include, but are not limited to:

(A) Actions under ORS 197A.100(3);

(B) Dedicating funds for increased local capacity to facilitate housing production, affordability and choice;

(C) Dedicating funds for public facilities and infrastructure necessary to support housing production;

(D) Taking measures that increase the availability of development-ready land;

(E) Amending the development code, approval criteria or procedures to reduce cost or delay to housing production; and

(F) Taking emergency temporary measures to support housing production;

(c) For actions that require coordination with other public bodies, participation in any department-initiated mediation or coordination to identify policies and resources that would support housing production in the city.

(4) For actions other than those described in section (3), the city must include findings in its subsequent housing production strategy that the actions included address the barriers identified in the audit. For actions that require

coordination with other public bodies, the city may request department coordination and mediation to support city implementation of a housing production strategy.¶

(5) A housing acceleration agreement must include timelines with clear deadlines for the amendment of a housing production strategy under section (3), actions undertaken in the agreement, and subsequent adoption of a housing production strategy.¶

(a) The subsequent deadline for a housing production strategy is the latter of:¶

(A) Three years following the amendment of a housing production strategy under section (3); or¶

(B) One year after the city's deadline for completing a housing capacity analysis under OAR 660-008-0045.¶

(b) The department may provide extensions to a city's subsequent housing production strategy deadline under OAR 660-008-0310(1).¶

(6) The department will review an adopted or amended housing production strategy under OAR 660-008-0215 for consistency with the actions, timelines, and parameters in an executed housing acceleration agreement.¶

(7) A city must implement actions identified in a housing acceleration agreement within the timeline and parameters specified in the executed agreement. The department will address non-compliance in abiding the terms of a housing acceleration agreement as specified in OAR 660-008-0335.¶

(8) The department may grant limited extensions to any of the deadlines of this rule for emergencies, good cause, or other factors outside of the city's control. The department must provide a written decision within 30 days of the city's request for a timeline extension, specifying the rationale for the extension and any revised timeline.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.130

ADOPT: 660-008-0335

NOTICE FILED DATE: 09/26/2024

RULE SUMMARY: In the case of non-compliance in entering or abiding the terms of a Housing Acceleration Agreement, this rule establishes tools and a process by which DLCD enforces the above rules. The vehicle for enforcement is an enforcement order issued by the Land Conservation and Development Commission which, among other actions, may implement a model code.

CHANGES TO RULE:

660-008-0335

Non-Compliance in Entering or Abiding the Terms of a Housing Acceleration Agreement

A city referred to the housing acceleration program under OAR 660-008-0310 to OAR 660-008-0320 and the department must enter into a housing acceleration agreement under ORS 197A.130(6) within six months of the publication of an audit by the department. Under an adopted housing acceleration agreement, the city must take actions by deadlines specified in the housing acceleration agreement as described in OAR 660-008-0330. The department will take the following actions in response to non-compliance with a housing acceleration agreement in furtherance of timely and effective implementation of a housing acceleration agreement:¶

(1) If the city fails to enter or abide the terms of a housing acceleration agreement under OAR 660-008-0330 by the prescribed deadline, the department must issue written notice to the city within 30 days.¶

(a) If the department does not provide a housing acceleration agreement to the city at least 90 days before the deadline under OAR 660-008-0330(1), the city has not materially breached a term of the housing acceleration agreement.¶

(b) If the department does not fulfill an action specified in an adopted housing acceleration agreement necessary for the local fulfillment of the agreement, including the provision of technical assistance or funding under OAR 660-008-0330(2)(a)(A), the city has not materially breached a term of the housing acceleration agreement.¶

(2) In any notice under section (1), the department must include:¶

(a) The date of the notice;¶

(b) The specific delinquent actions and deadlines that the city is required to fulfill;¶

(c) A description of the action or actions the city can take to remedy the delinquency, including timelines by which the action or actions must be taken;¶

(d) An offer to enter formal mediation between the department and the city under section (3);¶

(e) A description of the enforcement actions that the department will take against the city if action is not taken within 90 days, including the initiation of an enforcement order under ORS 197.320(13); and¶

(f) A description of the potential enforcement tools provided in ORS 197.335(6) that could be applied in an enforcement order.¶

(3) Within 30 days of the notice date, a city may request formal mediation with the department to remedy the identified delinquency. ¶

(a) If requested, the department will enter formal mediation with the city to identify specific actions and resources needed to remedy the delinquency.¶

(b) The department may grant a limited extension to a city's prescribed deadline in a housing acceleration agreement under OAR 660-008-0330 to accommodate the implementation of actions and resources identified in mediation.¶

(4) Within 90 days of notice under section (1), if a local government has not taken action to remedy the delinquency described in subsection (2)(c) and has not entered formal mediation with the department, the department will initiate an enforcement order under ORS 197.320(13). In initiating an enforcement order, the department will recommend an order to the commission as authorized under 197.335(6), including:¶

(a) The specific action or actions necessary to remedy the identified delinquency;¶

(b) Required application of model ordinances and procedures developed by the department to all residential development within the city until the specific action or actions identified in the order are undertaken; and¶

(c) Other enforcement provisions under ORS 197.335(6) that are relevant and necessary to remedy the identified delinquency.¶

(5) The department may grant limited extensions to any of the deadlines of this rule for emergencies, good cause, or other factors outside of the city's control. The department must provide a written decision within 30 days of the city's request for a timeline extension, specifying the rationale for the extension and any revised timeline.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197A.130, ORS 197.320, ORS 197.335

