



PLANNING COMMISSION WORK SESSION AGENDA

Monday, October 09, 2023 - 6:00 PM

City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365

All public meetings of the City of Newport will be held in the City Council Chambers of the Newport City Hall, 169 SW Coast Highway, Newport. The meeting location is accessible to persons with disabilities. A request for an interpreter, or for other accommodations, should be made at least 48 hours in advance of the meeting to Erik Glover, City Recorder at 541.574.0613, or e.glover@newportoregon.gov.

All meetings are live-streamed at <https://newportoregon.gov>, and broadcast on Charter Channel 190. Anyone wishing to provide written public comment should send the comment to publiccomment@newportoregon.gov. Public comment must be received four hours prior to a scheduled meeting. For example, if a meeting is to be held at 3:00 P.M., the deadline to submit written comment is 11:00 A.M. If a meeting is scheduled to occur before noon, the written comment must be submitted by 5:00 P.M. the previous day. To provide virtual public comment during a city meeting, a request must be made to the meeting staff at least 24 hours prior to the start of the meeting. This provision applies only to public comment and presenters outside the area and/or unable to physically attend an in person meeting.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. CALL TO ORDER

Bill Branigan, Bob Berman, Jim Hanselman, Gary East, Braulio Escobar, John Updike, Marjorie Blom, Dustin Capri, and Greg Sutton.

2. NEW BUSINESS

2.A Land Use Workshop.

[Memorandum](#)

[DLCD Workshop PowerPoint](#)

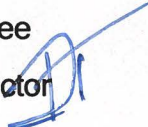
[LCDC 2023 Legislative Summary](#)

[Governor's Housing Production Framework](#)

3. UNFINISHED BUSINESS

4. ADJOURNMENT

Memorandum

To: Planning Commission/Commission Advisory Committee
From: Derrick I. Tokos, AICP, Community Development Director 
Date: October 5, 2023
Re: Land Use Workshop

Brett Estes, the Department of Land Conservation and Development's (DLCDCs) North Coast Regional Representative, will be attending the work session to provide an overview of Oregon's Land Use Planning Program and the Planning Commission's role and responsibilities within that framework. Enclosed is a PowerPoint presentation that he put together. I am also attaching a copy of DLCDC's 2023 legislative summary should you have questions about new land use laws. This is the only item on the work session agenda, and there are no regular session items, so I advised Brett that we would have about 90 minutes, including time for Q&A.

Lastly, the Governor's Office just released a draft framework for a housing production proposal that she intends to introduce in the upcoming legislative short session. It includes components of HB 3414 which fell a vote or two short last session. I am passing it along as an FYI, not that I expect Brett to address it in any detail.

Attachments

DLCDC Workshop PowerPoint
DLCDC 2023 Legislative Summary
Governor's Housing Production Framework



DLCD



Land Use Workshop:

City of Newport

October 9, 2023

Brett Estes
North Coast Regional Representative
brett.estes@dlcd.oregon.gov
503-881-0667

A Little History

- 1919 – Oregon legislature permits cities to zone private land
- 1947 – Oregon legislature permits counties to zone private land
- 1963 – Oregon legislature establishes the Exclusive Farm Use (EFU) zone and the uses it allows



A Little History

- 1973 – Senate Bill 100 creates the Land Conservation and Development Commission (LCDC) charging it with adopting statewide planning goals
- 1975 – First 14 goals adopted
- 1975 – Goal 15 adopted
- 1976 – Goals 16-19 adopted (coastal resource goals)
- 1976-86 – LCDC acknowledges all city and county comprehensive plans
- 1977 - The Oregon Coastal Management Program was created to “to work in partnership with coastal local governments, state and federal agencies, and other stakeholders to ensure that Oregon's coastal and ocean resources are managed, conserved, and developed consistent with statewide planning goals.”



STATEWIDE PLANNING GOALS

- Goal 1 – Citizen Involvement
- Goal 2 – Land Use Planning
- Goal 3 – Agricultural Lands
- Goal 4 – Forest Lands
- Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces
- Goal 6 – Air, Water, and Land Resources Quality
- Goal 7 - Areas Subject to Natural Hazards
- Goal 8 - Recreation Needs
- Goal 9 – Economic Development
- Goal 10 - Housing
- Goal 11 - Public Facilities and Services
- Goal 12 - Transportation
- Goal 13 – Energy Conservation
- Goal 14 - Urbanization
- Goal 16 – Estuarine Resources
- Goal 17 – Coastal Shorelands
- Goal 18 – Beaches and Dunes
- Goal 19 – Ocean Resources



GOAL 1

Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

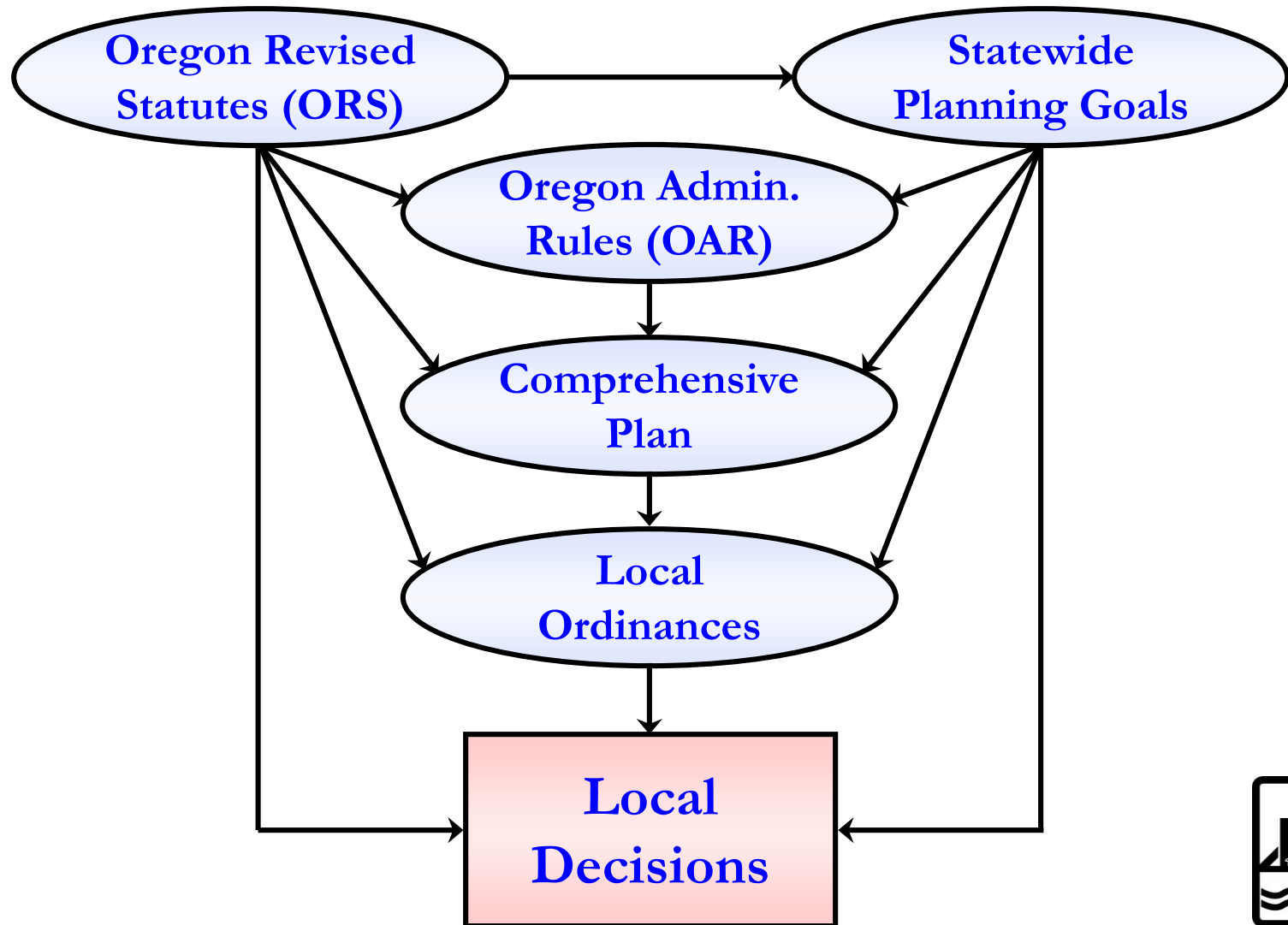


Diversity, Equity, and Inclusion

- **Diversity:** Diversity is the presence of difference within a given setting.
- **Equity:** Equity is an approach that ensures everyone access to the same opportunities
- **Inclusion:** Inclusion is about folks with different identities feeling and/or being valued, leveraged, and welcomed within a given setting



HOW IT TIES TOGETHER



State Responsibilities

➤ State

- DLCD is the statewide land use agency and governed by the Land Conservation and Development Commission
- Sets land use policy (goals and rules)
- Acknowledges city and county plans
- Enforces goals
- Reviews plan amendments
- Administers periodic review requirements
 - No longer a requirement for Cities with a population of less than 10,000 (including the UGB)
- Provides technical assistance to cities and counties
 - North Coast Regional Representative
 - Dollars
 - Technical support



Local Responsibilities

➤ Cities and Counties

- Adopt plans and codes in compliance with statewide goals
- Address local vision and needs
- Make land use decisions
- Enforce codes and ordinances
- Provide assistance to the public



GOAL 2

WHAT DOES IT DO?

- **Goal 2 requires local governments to have comprehensive land use plans and implementing ordinances that comply with the applicable Statewide Planning Goals.**



Comprehensive Plan

- Establishes a “vision”
- Guiding land use document for local government
- Comprehensive document that guides land use, infrastructure, development, conservation of natural resources, economic development, etc.



Comprehensive Plan

- A comp plan includes the following components:
 - Factual base – natural, social, and economic information that supports the maps and policies
 - Goals and policies – statements of intent used to guide implementing measures and must comply with the requirements of each statewide planning goal
 - Implementing measures – zoning and development codes, land division ordinances, etc.
 - Maps – future land use and zoning
- City and county plans must be consistent with one another. Special district and state agency plans and programs must be coordinated with comprehensive plans.



GOAL 2: ARE WE STUCK WITH WHAT WE'VE GOT?

- What is a Post-Acknowledgement Plan Amendment?
 - Comp plans can be updated through the Post-Acknowledgement Plan Amendment process
 - Sometimes the Comp Plan needs to be updated to comply with current state law
 - Or the community has had enough change that the Comprehensive Plan no longer reflects the community's vision
 - Or the piecemeal approach makes it difficult to interpret...

[OAR 660-018](#) – *Post-Acknowledgement Plan Amendments*



GOAL 2 :

WHAT IF SOMETHING DOESN'T MAKE SENSE?

➤ What is an “Exception”?

- Sometimes, local governments may want to take an exception to one of the land use goals when unique circumstances warrant a local override of the statewide goal to create a better outcome

[OAR 660-004](#) – *Interpretation of Goal 2
Exception Process*



OTHER OARS LINKED TO GOAL 2

[OAR 660-025](#) – *Periodic Review –no longer a requirement (for now...)*

[OAR 660-030](#) – *Review and Approval of State Agency Coordination Programs* – Twenty-six state agencies besides DLCD have programs that affect land use and they must be coordinated. In other words, they must be consistent with the statewide planning goals and compatible with local comprehensive plans.

[OAR 660-031](#) – *State Permit Compliance and Compatibility*



Zoning & Development Code

- Specific regulations designed to implement comprehensive plan policies
- Regulates uses, location, density, height, setbacks, etc.
- Sets forth the criteria or standards that each application must meet in order to be approved
- Includes zoning, permitting procedures, development standards, and subdivision and partition standards



Types of Land Use Decisions

- **Legislative**
- **Quasi-Judicial**
- **Ministerial**
- **Limited Land Use**



Types of Decisions

➤ Legislative Land Use Decision

- Adoption and amendment of policies and ordinances
- Large geographic area, many ownerships
- No decision is required
- Adopted by elected officials
- Role of planning commission is to make a recommendation
- Usually at least two hearings



Types of Decisions

- **Quasi-judicial Land Use Decision**
 - Application of pre-existing criteria and requiring exercise of discretion
 - Single or few ownerships
 - Action required
 - Planning staff, hearings officer, or planning commission makes the initial decision; local appeal possible
 - Opportunity for a hearing is required



Types of Decisions

➤ Ministerial Action

- Application of pre-existing criteria and requiring **no** exercise of discretion
- Usually one site
- Action required
- Staff makes the decision, with no appeal opportunity
- No hearing



Types of Decisions

- **Limited Land Use Decision (ORS 197)**
 - Applies to UGB
 - Limited to subdivisions or partitions under ORS Chapter 92 or
 - Site or design reviews
 - Comments are received in writing



Notice requirements

- Legislative – general notice and “Measure 56” notice
- Quasi-judicial – to property owners within a prescribed distance and others who request it
- Ministerial – none
- Limited Land Use – to property owners within a prescribed distance and any recognized neighborhood organization for the area



Quasi-judicial Hearings

➤ Quasi-judicial Procedures

- Chair opens hearing
 - Chair describes proceedings
 - Raise-it-or-waive-it statement
 - Announcement of criteria
 - Declaration of ex parte contact, bias, conflict of interest
- Staff report
 - Proposed findings and recommendation



- **Testimony**
 - **Applicant**
 - **Other Proponents**
 - **Opponents**
 - **Neutral**
 - **Applicant's rebuttal**
- **Requests for continuance and leaving the record open**



Legislative Hearing

➤ Legislative Procedures

- Ensure everyone has the opportunity to participate
- No need to separate proponents and opponents
- No concerns with ex parte contact or bias, but conflict of interest concerns remain



What Are Findings?

- Findings are a statement of the standards (criteria), facts and conclusions in making a decision.



Findings

- **Purposes of findings include:**
 - **Aiding careful consideration of criteria by the reviewing body**
 - **Establishing what facts and evidence the reviewing body relied on**
 - **Explaining how the conclusions are supported by substantial evidence**
 - **Findings show the decision was not arbitrary and that the reviewing body followed its procedures**



Findings

- Findings include statements of:
 - Relevant facts
 - How each approval criterion is satisfied by the facts
 - The facts relied upon and the justification for the decision
 - If a party asserts that a criterion is applicable, and the reviewing body disagrees, the findings should explain why the criterion is not applicable.



Findings

- **Tips for making good findings:**
 - Identify all of the applicable criteria
 - Address each criterion separately
 - State the fact that leads to the conclusion
 - Avoid findings that restate the law
 - Put them in clear, understandable language
 - Where there is inconsistent evidence, state there was conflicting evidence, but the hearings body believed certain evidence for certain reasons



Findings

- **Tips for making good findings (cont'd):**
 - **Articulate the link between the project impact and any conditions being imposed**
 - **In instances where the decision-making body issues a decision that deviates from staff's recommendation, the decision-making body must provide findings that support their decision and any conditions that arise from that decision.**



Findings

- **Common problems with findings:**
 - Failure to address each criterion
 - Deferring a necessary finding to a condition of approval
 - Generalizing or making a conclusion without sufficient facts
 - Failure to establish causal relationship between facts and conclusions



WHAT DOES LUBA MEAN?

- Prior to the Land Use Board of Appeals (LUBA) creation, land use appeals were heard by the Land Conservation and Development Commission (LCDC) and the circuit courts. LUBA was created to simplify the appeal process, speed resolution of land use disputes and provide consistent interpretation of state and local land use laws. The tribunal is the first of its kind in the United States.
- The governor appoints the three-member board to serve four-year terms.
- The Rules of Procedure for Appeals can be found in OAR Chapter 661.



Fairness

- **Ex Parte**
- **Conflicts of Interest (Actual and Perceived)**
- **Bias**

Ex Parte

➤ Ex Parte Contact

- Applies only to quasi-judicial decisions
- Must be declared and described at the outset of a hearing
- Site visits are ex parte contact
- Staff contact is not ex parte contact
- Doesn't necessarily lead to disqualification (appearance of bias)



Actual Conflict of Interest

- “Actual conflict of interest” means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which **would be** to the private pecuniary benefit or detriment of the person or the person’s relative or any business with which the person or a relative of the person is associated.



Potential Conflict of Interest

- “Potential conflict of interest” means any ... decision ... by a person acting in a capacity as a public official, the effect of which **could be** to the private pecuniary benefit or detriment of the person or the person’s relative, or a business ... unless the pecuniary benefit or detriment arises out of the following:



Potential Conflict of Interest continued

- An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.



How to Address Conflict of Interest

- **Potential conflict of interest**
 - Announce publicly the nature of the potential conflict prior to taking any action thereon
- **Actual conflict of interest**
 - Refrain from participating as a public official in any discussion, debate, or vote
 - Unless the vote is needed for a quorum



Bias

➤ Bias

- Prejudice or prejudgment of the facts to such a degree that an official is incapable of making an objective decision based on the merits of the case.
- Does not require recusal



STATUTES YOU MIGHT FIND USEFUL

[ORS 92](#) Subdivisions and Partitions

[ORS 195](#) Local Government
Planning Coordination

[ORS 197](#) Comprehensive Land Use
Planning Coordination

[ORS 215](#) County Planning; Zoning; Housing
Codes

[ORS 227](#) City Planning and Zoning



THE END...



**RATHER, IT'S
JUST THE
BEGINNING!**





July 12, 2023

TO: Interested Persons, Local Governments and State Agencies

FROM: Palmer Mason, Senior Policy Advisor
Alexis Biddle, Legislative and Policy Coordinator
Department of Land Conservation and Development



SUBJECT: 2023 DLCD Legislative Summary

2023 DLCD LEGISLATIVE SUMMARY

INTRODUCTION

Oregon legislators introduced more than 2,000 bills during the 2023 legislative session. DCLD tracked more than 200 of them, and about 50 stayed active until the final weeks of the session.

This report describes the legislative policies and statutory changes important to DLCD, local governments and the state's land use planning program from the 2023 legislative session. Sections of this report include Budget, Housing, Climate, Resource Lands, Coastal, Administrative and Miscellaneous, and active bills that did not pass.

I. BUDGET

TABLE 1.1

	2021-23 Legislatively Approved Budget	2023-25 Governor's Recommended Budget	2023-25 Legislatively Adopted Budget
General Fund	\$26,114,458	\$21,924,348	\$35,575,182
Other Funds	\$2,208,436	\$3,906,877	\$1,755,120
Federal Funds	\$6,748,006	\$7,662,988	\$9,215,256
Total Funds	\$35,070,900	\$33,494,213	\$46,545,558
Positions / Full-Time Equivalent (FTE)	68 / 66.35	74 / 72.80	78 / 75.93

Table 1.1 compares the 2021-23 Legislatively Approved Budget, the 2023-25 Governor's Recommended Budget, and the 23-25 Legislatively Approved Budget. It also includes the following grant dollars for local governments:

- \$1.78m – General Grant Program (HB 5027)

- \$3.5m – Housing related to Goals 10 and 14 (HB 2001)
- \$1.25m – Middle Housing for Small Cities (HB 3395)
- \$2.69m – Climate Friendly and Equitable Communities Program (HB 5506)
- \$6.5m – Community Green Infrastructure Grant Program (HB 3409)

TABLE 1.2

General Fund	Operations	Grants	Total GF	Positions	FTE
HB 5027	\$15,412,776	\$1,781,089	\$ 17,193,865	65	63.92
HB2001	\$2,675,884	\$3,500,000	\$ 6,175,884	7	7.00
HB 5506-CFEC	\$309,078	\$2,690,922	\$ 3,000,000	1	1.00
HB 5506/3409-TREES	\$768,741	\$6,500,000	\$ 7,268,741	4	3.13
HB 3409-Solar Siting	\$471,692	\$0	\$ 471,692	1	0.88
HB 3395 Housing	\$0	\$1,250,000	\$ 1,250,000	0	0.00
HB 2727	\$215,000	\$0	\$ 215,000	0	0.00
Totals	\$19,853,171	\$15,722,011	\$ 35,575,182	78	75.93
		OF	\$ 1,755,120		
		FF	\$ 9,215,256		
		TF	\$ 46,545,558		

Table 1.2 summarizes all funding, positions and FTEs from the 2023 legislative session. In total, DLCD will have about a \$46.5m budget, 78 positions and 75.9 FTE.

HB 5027 – DLCD Budget Bill

Summary: HB 5027 is DLCD’s budget bill and allocates \$28,164,241 (~\$17.1 GF, ~\$1.7m OF, ~\$9.2m federal) to authorize and fund 65 positions. The bill largely continues current service level funding with a minor reduction (~3%) that does not require any cuts to our positions. The bill does include 3 Policy Option Packages (POPs) from the Governor’s Recommended Budget including:

Habitat Coordinator (POP 206)

This position converts an existing position to permanent status, continuing work with partners to apply for and administer National Oceanic and Atmospheric Administration infrastructure dollars for habitat acquisition and restoration projects. Federally funded.

Chief Information Officer (POP 210)

This newly created position will lead the department as the Chief Information Officer (CIO) to update and implement the agency-wide IT Strategic Plan, systems integration, IT department management, ongoing systems modernization initiatives, along with data security and governance.

Technical Corrections (POP 211)

This position makes funding and classification adjustments for four positions.

Positions: 65 (all permanent) **FTE:** 63.92

Status: Awaiting Governor's Signature **Effective Date:** Upon passage

HB 5506 – End-of-Session Appropriations Bill

Summary: HB 5506 allocates additional funds to DLCD:

- HB 5506 appropriates \$6.5m to DLCD for the Community Green Infrastructure Fund (see HB 3409 below). This funding will be distributed to eligible grant applicants.
- The bill also appropriates \$3m to DLCD for Climate Friendly and Equitable Communities (CFEC) – approximately 90% of this funding is dedicated directly to local governments for CFEC implementation.

Positions: 1 (Permanent) **FTE:** 63.92

Status: Awaiting Governor's Signature **Effective Date:** Upon passage

II. HOUSING

HB 2001 – Oregon Housing Needs Analysis

Chief Sponsors: Rep. Dexter, Rep. Helfrich, Sen. Jama, and Sen. Anderson

Summary: HB 2001 updates the statutory framework implementing Goal 10 to emphasize a measurable and accountable approach to housing production that provides needed units at all levels of affordability, promotes a greater range of housing options and types, and affirmatively furthers fair housing. Among its major provisions, this legislation includes the following:

Housing Need Methodology & Housing Production Targets

- Establishes the Oregon Housing Needs Analysis (OHNA) methodology within the Department of Administrative Services to project the statewide 20-year housing need, to allocate the proportional share of need to individual cities and counties, and to identify

housing production targets for each city over 10,000 and unincorporated urban areas of the Metro counties no later than January 1, 2025.

- Requires the 20-year allocation of housing need to include the following:
 - Population and household growth;
 - Current housing underproduction;
 - Housing needed for people experiencing homelessness; and
 - Housing units projected to be converted into second and vacation homes.
- Requires the OHNA methodology to report housing needs using the following household income levels:
 - Below 30% Median Family Income (MFI);
 - 30% to 60% MFI;
 - 60% to 80% MFI;
 - 80% to 120% MFI; and
 - Above 120% MFI.

Housing Production Dashboard

- Requires OHCS to publish no later than January 1, 2025, a housing production dashboard with assessments of the progress made by cities above 10,000 population on housing production targets.

Equity Analysis

- Requires OHCS to maintain a comprehensive statewide equity analysis, based on best available data, to provide baseline analysis that local jurisdictions must complete as part of a Housing Production Strategy to track equity-related housing outcomes.

Urbanization

- Outlines a set of clear principles that LCDC must follow in adopting or implementing housing rules that focus on making housing accessible and affordable, emphasize production and support to local governments, emphasize equitable outcomes and environmental justice, and avoid litigation or regulatory uncertainty.
- Directs LCDC to adopt rules that focus on providing flexibility and certainty in local compliance with Goals 10 and 14. Rules relating to housing production strategies and housing accountability are due on or before January 1, 2025, and rules relating to buildable land inventories and UGB amendments, land exchanges, and urban reserves on or before January 1, 2026.
- Allows LCDC to postpone the application of HB 2001 to cities currently adopting changes and updates under Goal 10 until January 1, 2026.

- *Note: This was amended to January 1, 2027 in HB 2889.*
- Requires cities to identify “development ready lands” as part of their buildable land inventories, focused on areas annexed and zoned to allow housing with clear and objective standards, readily served with public facilities or near-term improvements identified in the adopted capital improvement plan.
- Modifies the “Needed Housing” statute to reflect OHNA estimates and allocations. Cities will determine the type, characteristics, and locations of housing based on the allocation of housing need by DAS. Metro will estimate and allocate housing need to cities and urban, unincorporated areas within the Metro region.
 - *Note: HB 2889 shifted the allocation responsibility in the Metro region from Metro to DAS. This allocation will be based on the needs projection developed by Metro as part of the Growth Management Decision. Additionally, the OHNA policy estimates and allocates housing need for urban, unincorporated areas within the Metro with the expectation that policy recommendations for Goal 10 implementation will be developed for the 2024 Session.*

Housing Accountability

- Establishes a framework for DLCD to periodically evaluate housing production progress and refers underperforming cities to a housing acceleration program, effective January 1, 2025. Require DLCD to evaluate city progress and performance on production, affordability, and choice, and for cities that are underperforming, not completing HPS requirements by the deadline, or referred by an enforcement order, refer into the housing acceleration program.
- Expands the conditions under which LCDC may pursue an enforcement order and the types of actions that LCDC may compel from cities relating to the housing acceleration program, housing production strategies and local housing approvals.

Housing Production Strategies

- Establishes a clear state goal for housing production strategies of providing to further “housing choice for all”, ‘affirmatively furthering fair housing’. and fair and equitable housing outcomes
- Clarifies the types of actions that increase housing production, affordability, and choice, including ‘efficiency measures’ which were historically part of the buildable lands statute.
- Establishes a Housing Coordination Strategy required for Metro and optional for other regional/county entities, recognizing the coordinating role that regional governments play in housing planning and outlining the actions and tools that could be included in such strategies.

Population Forecasts

- Amends the population forecast statutes to require the Population Research Center and Metro to include race, ethnicity and disability in their projections. Further requires the Population Research Center to include tribal lands in its projections.

Requires complex rulemaking and a rules advisory committee.

Positions: 7 (all permanent)

FTE: 7

Status: Signed by Governor March 29, 2023

Effective Date: Upon passage

HB 3395 – Housing Omnibus Bill

Chief Sponsor: Speaker Rayfield, Rep. Dexter, Rep. Gomberg, and Sen. Jama

Summary: HB 3395 sets forth numerous policy changes related to residential development:

- Requires non-Metro cities between 2,500 – 10,000 residents to adopt ordinances allowing duplexes on any lot zoned for residential use that allows single family detached housing by June 30, 2025. DLCD will receive \$1.25m to provide grant assistance for those cities to update their local development codes.
- In areas within UGB boundaries and zoned for commercial use, directs local governments to allow housing units available to those households making 60% of area median income, or allow mixed use structures with ground floor commercial for those households with moderate incomes as defined in ORS 456.270 (80-120% AMI). This provision takes effect as of January 1, 2024.
- Provides local governments flexibility on their required timelines for final action on an application for a permit, limited land use decision or zone change. Specifically, when a local government tentatively approves an application for the development of a residential structure within an urban growth boundary, they may extend the deadline (100 days for counties, 120 days for cities) by up to seven days to ensure sufficiency of the final order. Additionally, it provides local and state government agencies the ability to withdraw final decisions for reconsideration on appeal for an application relating to the development of a residential structure. Collectively, these provisions are intended to reduce appeals that can substantially delay the development of housing by providing local governments more time and ability to address issues before they are appealed. These provisions take effect as of January 1, 2024.
- Makes permanent the requirement that local governments approve emergency shelters subject to certain conditions and operated by a local government, non-profit, religious corporation, or housing authority located on any property within the UGB or on rural residential lands. This provision does not apply when the point-in-time count indicates that homelessness comprises less than 0.18% of the total state population.

- Awards attorney fees to any local government or intervening applicant that prevails on the appeal of the local approval of an emergency shelter, and to any applicant that prevails on the appeal of a local denial.
- Exempts development established on or after January 1, 2024, in which each residential unit is subject to an affordability restriction, owned by a public benefit corporation or owned by a religious corporation from the definition of “planned community” provided in ORS 94.550. This provision takes effect as of January 1, 2024.
- Precludes local governments from reviewing and approving condominium plats, and prohibits any zoning, subdivision, building code or other regulation that imposes a tax or fee, approval process or permitting requirements upon any development or property proposed as condominium not also imposed on a different form of ownership. This provision takes effect as of January 1, 2024.
- Directs that cities and counties to accept as assurance for the provision of water and sewer services one or more award letters from public funding sources made to a person subdividing a property for affordable housing if the value of the award letters exceeds the total project cost. This provision takes effect as of January 1, 2024.
- Requires local governments to approve Single Room Occupancy development with up to 6 units on each lot zoned for single family detached housing and, if the lot allows the development of 5 or more units, then the SRO development must be approved up to the number of units allowed by the underlying density standard. This provision takes effect as January 1, 2024.
- Amends the definition of “needed housing” in ORS 197.296 and 197.303 to include “single room occupancy” development, meaning that local governments must consider this development type when evaluating the amount of buildable land necessary for residential development over a 20-year timeframe and when preparing Housing Production Strategies to meet housing production goals. This provision takes effect as of January 1, 2024.
- Establishes a process for homeowner associations to remove discriminatory language from any declaration or bylaws adopted for a planned community or condominium established before September 1, 2021, to review these documents and amend such language on or before December 31, 2024.
- Allows the Public Utilities Commission to permit utilities to convey a real property interest at below market prices or as a gift provided the property is used for affordable housing. This provision takes effect as of January 1, 2024.

- Directs the Oregon Department of Administrative Services, in consultation with DLCD and OHCS, to provide grants to councils of government and economic development districts to support housing and community development capacity in local governments and the federally recognized tribes. HB 3395 appropriates \$5M for this purpose.

Requires conforming rulemaking.

Status: Awaiting Governor's Signature

Effective Date: Upon passage unless otherwise noted (underlined above).

HB 2127 – Pendleton UGB Expansion for Affordable Housing Pilot Extension

Chief Sponsor: Rep. Mannix

Summary: In 2016, the Oregon Legislative Assembly passed House Bill 4079, which established a pilot program for the construction of affordable housing. The program allowed two cities to approve affordable housing on land outside but adjacent to their urban growth boundary (UGB) under certain conditions, including the a demonstration selected projects that were likely to provide affordable housing that otherwise would not have been built. Ultimately, the cities of Bend and Redmond were selected. Later, in 2021, the Legislative Assembly enacted House Bill 2160, which allowed LCDC to consider an application from the City of Pendleton under the pilot project with a deadline for the application on June 30, 2023.

HB 2127 removed the deadline for the City of Pendleton to apply to a pilot project program for affordable housing and sunsets the program on January 2, 2028.

Status: Awaiting Governor's Signature

Effective Date: Upon passage

HB 2889 – Oregon Housing Needs Analysis Recommendations

Chief Sponsor: Rep. Dexter, Rep. Fahey, Rep. Marsh, Sen. Jama, and Sen. Gorsek

Summary: HB 2889 served as the “clean-up” legislation to HB 2001 adopted earlier to implement the Oregon Housing Needs Analysis (OHNA) framework and to update Goals 10 and 14 for improved housing production. The bill revises the OHNA Methodology process and targets to reflect the policy priorities to track the production of all levels of housing affordability. It also re-assigned the responsibility for allocating housing need in the Metro region from Metro Regional Government to Department of Administrative Services. Finally, HB 2889 includes other technical clarifications to correct errors, ensure the policy functions as intended, and avoid create potential unanticipated consequences.

Status: Awaiting Governor's Signature

Effective Date: Upon passage

HB 2898 – Extending Time for Siting Recreational Vehicles as Shelter

Chief Sponsors: Rep. Cate and Sen. Brock Smith

Summary: Since 2005, Oregon law has allowed the use of a recreational vehicle (RV) as a dwelling if all of the following conditions are met:

- the RV is located in a manufactured home park, mobile home park, or RV park;
- the RV is occupied as a residential dwelling; and
- the RV has lawful water and electric hook-ups and a sewage disposal system.

In response to the 2020 wildfires, the Legislative Assembly enacted House Bill 2809 (2021), which also permitted the siting of an RV as a dwelling on the lot of a manufactured or single-family home made uninhabitable by a natural disaster, until the home is made habitable or 24 months following the date it was made uninhabitable. House Bill 2898 extends the time allowance for living in an on-site RV to five years. The measure also specifies that, under applications to alter, restore, or replace a dwelling destroyed by the 2020 wildfires, the applicant is permitted to occupy an RV until December 30, 2030.

Status: Awaiting Governor’s Signature

Effective Date: Upon passage

HB 2984 – Commercial to Residential Conversions Exemptions

Chief Sponsor: Rep. Marsh

Summary: HB 2984 requires local governments to allow conversion of a building from commercial to residential use without requiring a zone change or conditional use permit. It clarifies housing developed under these provisions may occur only within an urban growth boundary for cities with populations of 10,000 or greater, and not on lands zoned for heavy industrial use. It allows local governments to require payment of system development charge (SDC) if charge is based on specific commercial to residential conversion policy adopted by a local government on or before December 31, 2023; or is for water or wastewater and offset by any SDCs paid when building was originally constructed. Prohibits enforcement of parking minimums greater than those required for existing commercial or residential use.

Status: Awaiting Governor’s Signature

Effective Date: Upon passage

HB 3442 – Allowing Affordable Housing In Hazard Areas

Chief Sponsor: Rep. Javadi and Sen. Brock Smith

Summary: HB 3342 allows local governments with urban growth boundaries within 10 miles of the Pacific Ocean to approve affordable housing on public lands, areas zoned for commercial use or religious assembly, or certain industrial areas within 100-year floodplains or on property constrained by land use regulations based on natural hazards and hazards, if, within the city's urban growth boundary, more than 60 percent of land is within a tsunami inundation zone or more than 30 percent is within a 100-year floodplain. HB 3442 limits this affordable housing to those locations meeting minimum federal standards required by the National Flood Insurance Program or equally or more stringent local standards, occurring outside of flood waterways, and having updated emergency response plans.

HB 3462 – Temporary Housing under Emergency Declarations

Chief Sponsor: Rep. Hartman

Summary: HB 3462 directs the Oregon Department of Emergency Management (OEM), Oregon Housing and Community Services (OHCS), or Department of Human Services (DHS) to ensure temporary housing provided in response to emergencies is safe and complies with nondiscrimination laws. These agencies may provide equivalent resources, as funding allows, to potential recipients otherwise ineligible for federal resources, including ineligibility due to immigration status.

Status: Awaiting Governor's Signature

Effective Date: Upon passage

III. CLIMATE

HB 3409 – Climate Package (Green Infrastructure and Solar Siting)

Chief Sponsors: Speaker Rayfield, Rep. Marsh, Rep. K. Pham, Senator Dembrow, and Senator Lieber

Summary: HB 3409 is a climate package with many components – not all of which apply to DLCD:

Community Green Infrastructure Grant Program

- Establishes the Community Green Infrastructure Grant Program, which is to be administered by DLCD for the purpose of awarding grants to offset the cost of planning and developing community green infrastructure projects or green infrastructure

economic development projects, developing and supporting native seed banks or native plant nurseries, and for implementing green infrastructure master plans.

- The measure requires DLCD to enter into an intergovernmental agreement with ODF for assistance with the design and implementation of the program, acquiring and administering federal funding related to green infrastructure projects, or technical advice or feedback on the grant review process.
- Requires DLCD to enter into an intergovernmental agreement with the Oregon Department of Transportation for technical advice concerning state transportation facilities and rights of way as they relate to the design and implementation of the program, acquiring and administering federal funding related to green infrastructure projects, and technical advice or feedback on the grant review process.
- Permits DLCD to appoint an Advisory Committee on Community Green Infrastructure Investments to provide consultation on the implementation of the grant program. No later than September 15 of each even-numbered year, the Advisory Committee is to submit a report on the implementation of the program to the appropriate interim Committee of the Legislative Assembly. The measure establishes the Community Green Infrastructure Fund with moneys in the fund continuously appropriated to DLCD to award grants, with 30 percent for grants for planning and developing green infrastructure economic development projects, 40 percent for grants to entities or projects located in green infrastructure improvement zones, and 30 percent for grants for entities or projects in tribal, rural, remote, or coastal communities. None of the funds are allocated for administration of the grant program.
- The measure appropriates \$6.5 million General Fund for grants. \$6.5 million Other Funds expenditure limitation will be added to SB 5506 (See above), as well as designating the General Fund appropriated to be deposited in the Community Green Infrastructure Fund, which will allow moneys to be expended in future biennia.
- Requires ODF to acquire and maintain a statewide urban tree canopy assessment tool that provides geospatial mapping and make it available on a website maintained by the Department. Lastly, the measure requires ODF to develop and implement a program to provide technical and financial assistance to public bodies, tribal governments, watershed councils, and community-based organizations for planning, responding to, and recovering damage to habitats and urban tree canopies due to pests, diseases, or other natural or human-created conditions that lead to loss of tree canopy.
- In addition to the \$6.5 million General Fund appropriation, the measure appropriates \$768,741 General Fund to DLCD in the 2023-25 biennium for new positions and related costs. The grant funding provided by this measure is a one-time appropriation and if all grant funding is not disbursed in the 2023-25 biennium, DLCD will retain the funding but need to request ongoing position authority and expenditure limitation for the 2025-27 biennium.
- **Positions:** 4 (all limited duration) **FTE:** 3.13

Finding opportunities and reducing conflict in siting photovoltaic solar power generation facilities

- Directs DLCD to conduct two rulemakings related to the siting of solar energy facilities. The first rulemaking is to include photovoltaic energy facilities as a “rural industrial use” for purposes of goal exceptions by November 3, 2023. The second rulemaking will establish conditions for local governments to prioritize areas for photovoltaic energy facilities siting least likely to conflict with natural and cultural resource values by July 1, 2025.
- Establishes the 17 member rules advisory committee for siting photovoltaic solar power generation facilities to advise DLCD on adoption of rules related to photovoltaic solar power generation facility siting. DLCD is to provide an initial report to an appropriate interim committee of the legislative assembly by September 15, 2025, and a final report to certain entities by December 31, 2025.
- The measure requires DLCD to contract with a third party to support the rules advisory committee, including to facilitate and coordinate meetings, and furnish maps, data, and technical assistance. Members of the rules advisory committee are entitled to compensation and expenses. These portions of the measure sunset January 2, 2026.
- Provides DLCD \$471,692 general fund in the 2023-25 biennium. Department anticipates hiring one full-time planner 4. This position would provide support for the rules advisory committee and allow DLCD to develop more policy and technical expertise in renewable energy issues.
- **Positions:** 1 (limited duration) **FTE:** .88

Natural Climate Solutions

- Establishes various funds to be appropriated to the Oregon Watershed Enhancement Board, Department of Fish and Wildlife, Oregon Department of Forestry, and Department of Agriculture. These funds will establish programs that provide incentives and financial support for technical assistance to help landowners, Indian tribes, land managers and environmental justice communities to adopt practices that support natural climate solutions.
- HB 3409 also directs the Oregon Department of Energy to consult with DLCD (among other entities) to establish and maintain a carbon sequestration and storage baseline and activity-based metrics used to evaluate progress toward increasing net biological carbon sequestration and storage in natural and working lands.

Status: Awaiting Governor’s signature**Effective date:** Upon passage

IV. RESOURCE LANDS

HB 2192 – Replacement Dwellings on Forest Land

Chief Sponsors: Rep. Wright and Sen. Brock Smith

Summary: On lands zoned for forest use, current law provides for alteration, restoration, or replacement of lawfully established dwellings as a permitted use if the dwelling "has" intact exterior walls, an intact roof structure, indoor plumbing connected to a sanitary waste disposal system, interior electric wiring, and a heating system. If the dwelling is being replaced, it must be removed, demolished, or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling. Forestland dwelling statutes do not allow for alteration, restoration, or replacement of dwellings that no longer have intact walls and other structural components and do not meet requirements related to ad valorem taxation.

By contrast, on lands zoned for exclusive farm use, current law provides for alteration, restoration, or replacement of lawfully established dwellings as a permitted use if the dwelling "has" or "formerly had" intact structural features (HB 2746, 2013). Similarly, HB 2289 (2021) required that a local government approve an application to alter, restore, or replace a dwelling affected by the 2020 Labor Day wildfires if the former dwelling "had" intact structural features.

HB 2192 would modify requirements for a lawfully established forestland dwelling to be altered, restored, or replaced by aligning criteria applicable to the alteration, restoration, or replacement of lawfully established dwellings on forestland with the criteria for certain farmland dwellings. It allows for a lawfully established dwelling to be altered, restored, or replaced if:

- (1) the county determines that the dwelling formerly had intact exterior walls and roof structure, indoor plumbing, interior wiring for interior lights, and a heating system and
- (2) unless the value of the dwelling was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation since the later of five years before the date of the application or the date that the dwelling was built and became subject to property tax assessment; or if the value of the dwelling was eliminated as a result of destruction or demolition it was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of five years before the date of the destruction or demolition or the date that the dwelling was built and became subject to property tax assessment.

HB 2192 provides that applicable construction codes related to building, plumbing, sanitation, and health and safety may not be applied to the replacement dwelling if doing so would prohibit the siting of the replacement dwelling. An application for a replacement building must be filed within three years following the date that the dwelling last possessed all of the required qualifying features. Construction of the replacement dwelling must commence no later than four years after its application is approved and finalized. A replacement dwelling must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code if the

dwelling is in an area identified as extreme or high wildfire risk on the statewide wildfire risk map or if no statewide wildfire risk map has been adopted.

Requires conforming rulemaking.

Status: Awaiting Governor's Signature

Effective Date: Upon passage

HB 3179 – Modifies Jurisdiction for Solar Photovoltaic Power Generation Facilities

Chief Sponsor: Rep. Helm

Summary: HB 3179 increases the maximum acreage for solar photovoltaic power generation facilities under county jurisdiction. On high-value farmland the maximum facility acreage increases from 160 to 240 acres; on land that is predominantly cultivated or composed of certain soil acreage increases from 1,280 to 2,560 acres; and on any other land the acreage for county jurisdiction increases from 1,920 to 3,840 acres. Facilities greater than these thresholds will continue under the jurisdiction of the Energy Facility Siting Council.

HB 3179 also requires renewable energy facility that is solar photovoltaic power generating facility using newly authorized acreage limit under HB 3179 to provide decommissioning plan to accomplish restoration of site to useful, nonhazardous condition, which includes bonding or other security as financial assurance. The bill prohibits the Oregon Department of Transportation and the county court or board of county commissioners from discriminating against or favoring a renewable energy facility in reviewing or granting siting permits for such facilities to be built on the right of way of state highways or county roads.

Requires conforming rulemaking.

Status: Awaiting Governor's Signature

Effective Date: Upon passage

HB 3197 – Limits Clear and Objective Requirements for Housing

Chief Sponsor: Rep. McLain

Summary: HB 3197 directs local governments to apply clear and objective standards to residential development within urban growth boundaries and, after July 1, 2025, to apply such standards to residential development within non-resource lands, areas zoned for rural residential, and unincorporated communities designated in county comprehensive plans. Similarly, for farmworker accessory housing, counties must apply additional standards beyond those under ORS Chapter 215 or DLCD rules as clear and objective. Finally, HB 3197 no longer limits the discretionary option to clear and objective standards to appearance and aesthetic

standards, allowing developers and local governments to agree alternative design and development standards.

Status: Awaiting Governor's Signature

Effective Date: Upon passage

HB 3630 – Statewide Energy Strategy

Chief Sponsors: Speaker Rayfield, Rep. K. Pham, Rep. Marsh, and Sen. Golden

Summary: HB 3630 requires the Oregon Department of Energy to adopt a statewide energy strategy and support energy resiliency planning in each county in Oregon. This bill will inform the work of DLCD's rulemaking on photovoltaic power generation facilities under HB 3409 (see above).

Status: Awaiting Governor's Signature

Effective Date: Upon passage

SB 70 – Rural Residential Rezoning in Eastern Oregon Border Region

Chief Sponsor: Sen. Findley

Summary: In 2017, the Legislative Assembly created the Eastern Oregon Border Economic Development Region (Border Region) and established the Eastern Oregon Border Economic Development Board (Board) through the enactment of HB 2012. The Border Region is defined in rule as the area within 20 miles of the Oregon border with Idaho, which includes the cities of Ontario, Vale, and Nyssa.

In 2021, the Board urged the legislature to pass SB 16 as a means to increase rural residential housing options in the Border Region in response to significant residential growth in Idaho. The Legislative Assembly enacted the bill, which authorizes counties to partition and rezone up to 200 acres of lands within the Border Region from exclusive farm use to residential use, provided that the rezoned lands are not high-value farmland and other specified requirements are met.

SB 70 amends the definition of "high-value farmland" for residential rezoning of lands within the (Border Region to allow for rezoning within the boundaries of an irrigation district, drainage district, water improvement district, water control district, or related corporation, and within a portion of the Snake River Valley viticultural area. The bill requires that the rezoned lands are within a rural fire protection district, comply with applicable fire prevention code requirements, and are not within an area designated as a 100-year floodplain on a current Federal Emergency Management Agency map. It changes county authority to "partition" to county authority to "divide" lands zoned for exclusive farm use within the Border Region, provided that certain conditions are met.

Status: Awaiting Governor's Signature

Effective Date: Upon passage

SB 80 - Wildfire Bill

Chief Sponsors: Senate Interim Committee on Natural Resources and Wildfire Recovery

Summary: SB 80 updates many of the requirements set forth in SB 762 (2021), the omnibus wildfire bill, including:

- Directs the State Department of Forestry to oversee the development and maintenance of a comprehensive statewide wildfire hazard map. The map's name has been updated to "hazard" from "risk" and purposes of the map have been defined.
- The hazard zones have been changed to three zones: low, moderate, and high, from five risk classes (none, low, moderate, high, and extreme). Property owner notice and appeal processes have been revised.
- Requirements for a robust community engagement process have been added, including holding eight in-person meetings with county commissioners and staff throughout the state and a follow up meeting for counties to be scheduled by Association of Oregon Counties.
- Requirements for State agencies that use the map layer that geospatially displays the locations of socially and economically vulnerable communities are detailed, including how resources are directed, how communities are identified, and how outreach is conducted. No date is specified for the map's release, it is to be "completed and released expeditiously."

Status: Awaiting Governor's Signature

Effective Date: July 1, 2023

SB 85 – Amending Concentrated Animal Feeding Operation Regulations

Chief Sponsors: Senate Interim Committee on Natural Resources and Wildfire Recovery

Summary: SB 85 requires local government to issue a land use compatibility statement for proposed concentrated animal feeding operations (CAFOs). It also allows local governments to require a buffer or setback for large CAFOs that would be adjacent to legal residences or structures that were legal when constructed.

Status: Signed

Effective Date: May 8, 2023

SB 644 – Accessory Dwelling Unit Standards in Rural Residential Zones

Chief Sponsor: Sen. Knopp, and Sen. Findley

Summary: **SB 644** allows **counties to approve** accessory dwelling units in rural residential zones constructed consistent with Section R327 of the Oregon Residential Specialty Code if no statewide map of wildfire risk has been adopted or is located in an area on an adopted state wildfire risk map that vulnerable to extreme or high wildfire risk. Note that SB 80 (see above) provides the Oregon Department of Forestry direction with regard to adopting a statewide wildfire risk map.

Status: Awaiting Governor's Signature

Effective Date: Upon passage

SB 1013 – Allowing Recreational Vehicles on Certain Rural Properties

Chief Sponsors: Sen. Hayden, Sen. Linthicum, and Sen. Brock Smith

Summary: SB 1013 authorizes counties to allow property owners in a rural residential zones to site one recreational vehicle (RV) subject to residential rental agreement on property, provided: the property is not within an urban reserve and includes a single-family dwelling occupied solely as property owner's primary residence; no other dwelling units are sited on the property; the property owner does not allow the use of the RV or RV space for vacation or other short-term occupancy; the RV is owned or leased by the tenant; and the property owner provides essential services to the RV.

SB 1013 allows a county to require a property owner to register RV siting with the county; enter into written residential rental agreement with RV tenant; limit payment amount property owner may accept from tenant; and hold RV to county inspection and siting standards.

SB 1013 defines "recreational vehicle" for purposes of Act as a recreational vehicle that has not been rendered structurally immobile and is titled with the Department of Transportation. The bill prohibits a state agency from prohibiting placement or occupancy of RV solely on grounds it is an RV if it meets provisions of Act. Finally, the bill clarifies RVs sited under the measure's provisions are not subject to the state building code.

Status: Awaiting Governor's Signature

Effective Date: Upon passage

V. COASTAL

[HB 3382](#) – Creating Goal 16 Exception for Dredging in Coos Bay

Chief Sponsors: Rep. Javadi, Rep. Gomberg, Sen. Brock Smith, and Sen. Woods

Summary: HB 3382 allows local governments within the jurisdiction of the Port of Coos Bay to approve a “reasons exception” for Goal 16 (estuaries) to redesignate or rezone natural and conservation management units to allow for dredging of federally authorized deep draft navigation channels, access channels, and related structures. Applicants for this exception are limited to the International Port of Coos Bay and Oregon’s federally recognized tribes.

This exception requires that all dredging activities include mitigation of adverse impacts to ensure that “no net loss” of estuarine resources and the affected aquatic and shore areas and habitats.

The bill also provides that the rules and permitting authority of the Department of State Lands, The Department of Transportation, The State Parks and Recreation Department, The State Department of Fish and Wildlife, and the Department of Environmental Quality are not affected by this exception.

Status: Awaiting Governor’s Signature

Effective Date: Upon Passage

VI. ADMINISTRATIVE AND MISCELLANEOUS

[HB 2727](#) – Early Childhood Education Facility Siting Study

Chief Sponsor: Rep. Marsh

Summary: HB 2727 requires DLCD to convene a work group to study barriers to the development of early childhood education facilities statewide. It includes \$215,000 to contract with a facilitator and support work group participation. A report from this work group is due by December 31, 2024.

Status: Awaiting Governor’s Signature

Effective Date: Upon passage

HB 3167 - Allows Notice In Digital Newspapers

Chief Sponsors: Rep. Marsh, Rep. Smith, Sen. Knopp, Sen. Patterson

Summary: HB 3167 modifies definitions with ORS 193.010 to include digital newspaper formats as an acceptable form of legal notice.

Status: Awaiting Governor's Signature

Effective Date: Upon passage

HB 3362 – Validation of Illegal Land Division Purchased by Innocent Purchasers

Chief Sponsors: Rep. Conrad and Rep. Wright

Summary: HB 3362 allows a county to approve an application to validate a unit of land acquired by an innocent purchaser prior to January 1, 2023 if the county: before the acquisition, approved an application for the recognition of the unit of land as a lawfully established unit of land and approved an application for a property line adjustment to that unit of land, and after acquisition, revoked these approvals. The bill exempts such applications from specified minimum lot or parcel sizes and sunsets county authority on January 2, 2025.

HB 3362 allows any person, notwithstanding standing requirements or deadlines, to file with the Land Use Board of Appeals (LUBA) a notice of intent to appeal a land use decision made by a county if: the challenged decision approved an application for a template dwelling, a legal lot verification, or a property line adjustment; the approval of the challenged decision was based on forged deeds or documents; the applicant is not an "innocent purchaser" under the definition provided in this Act; and the applicant owned the property that was the subject of the challenged land use decision on January 1, 2023.. Prohibits the county from approving a new application for a template dwelling on the lot or parcel if the challenged decision is overturned on appeal.

Status: Awaiting Governor's Signature

Effective Date: Upon Passage

SB 4 –Siting Authority for Semiconductor and Advanced Manufacturing

Chief Sponsors: Rep. Bynum, Rep. Wallan, Sen. Knopp, and Sen. Sollman

Summary: SB 4 allows the Governor to add lands by executive order to existing urban growth boundaries for use in semiconductor manufacturing, advanced manufacturing or supply chain development related to these industries. The lands must be designated on or before Dec. 31, 2024, contiguous to the city's existing urban growth boundary, entirely within three miles of that boundary and not located on an acknowledged urban reserve. Before designating any such lands, the bill requires the Governor to determine that suitable lands are not available within the

existing UGB boundary and to take public input on the potential designation. The Governor may designate up to 8 sites within specific acreage limits.

Any lands designated under SB 4 are considered an acknowledged urban growth boundary. DLCDC must consider any designated lands included in a local ordinance adopted within 6 months of the executive order that zones the lands for semiconductor or advanced manufacturing uses as an acknowledged amendment to the local comprehensive plan or land use regulations. Lands added to UGBs may be removed upon order by the Governor if the lands will not receive federal semiconductor financial assistance.

Status: Awaiting Governor's Signature

Effective Date: Upon passage

SB 11 – Prompt Publishing of Commission Recordings

Chief Sponsor: Sen. Gorsek

Summary: SB 11 requires LCDC (among other state boards/commissions) to record and promptly publish public meetings through electronic means.

Status: Awaiting Governor's Signature

Effective Date: Upon passage

HB 3458 – Limiting Appeals of Remands to Issues Raised under Original Appeal

Chief Sponsor: Rep. McLain

Summary: HB 3458 prohibits a party from raising new issues before the Land Use Board of Appeals (LUBA) in cases where LUBA remands all or a portion of a decision related to an acknowledged comprehensive plan or land use regulation and the local government adopts the same changes following remand with revised findings and additional evidence responding to the remand. The bill also allows LUBA to partially affirm decisions if a local government demonstrates that a land use decision adopting a change to an acknowledged comprehensive plan or land use regulation contains a severability clause and specifically challenged portions of the changes are complete and capable of being executed with the legislative intent. HB 3458 applies to decisions made and petitions filed with LUBA on or after the effective date of this Act.

Status: Awaiting Governor's Signature

Effective Date: September 24th, 2023

VII. KEY BILLS THAT DID NOT PASS

HB 2659/SB 580 – Update Climate Friendly and Equitable Communities Rules

Chief Sponsors: Rep. Lively, Rep. Bynum, Sen. Prozanski

Summary: Both HB 2659 and SB 580 would have paused implementation of the current Climate Friendly and Equitable Communities rules and directed DLCD to update the rules in collaboration with local governments and with consideration for local plans and differing local capabilities and circumstances.

HB 3414 – Housing Accountability and Production, One-time UGB Expansions, and Awards of Attorney Fees

Sponsor: Joint Committee on Ways & Means (at the request of Governor Tina Kotek)

Summary: HB 3414 would have substantially changed the production of housing in the following ways:

Housing Accountability and Production Office

HB 3414 would have required DLCD and Oregon Department of Business and Consumer Services to establish the Housing Accountability and Production Office through an interagency agreement. The office would have been directed to:

- Support local compliance with state housing law through technical assistance and to reduce local permitting and land use barriers to housing production
- Serve as a resource for developers with questions about state and local housing requirements
- Investigate and respond to reasonable complaints about violations of state housing law
- Mediate disputes between developers and local governments relating to housing law

HB 3414 would have outlined a process for the office to investigate complaints of local government violations occurring after April 1, 2024, including how to provide assistance through voluntary agreements and, when necessary, to seek injunctive relief or initiate enforcement orders.

Adjustments to Local Design and Development Standards

HB 3414 would have required local governments to approve no more than 10 distinct “adjustments” to design and development standards for new residential development occurring within an urban growth boundary on land zoned for residential or mixed-use residential uses. The bill defined “adjustments” as a deviation from an existing land use regulation, excluding certain regulations related to health and safety, coastal development, environmental protections,

and natural hazards. HB 3414 also specified the types of design and development standards in which local governments must approve a requested “adjustment.”

One-time UGB Expansions

HB 3414 would have allowed cities outside of the Metro region to amend its UGB to include up to either 75 or 150 “net” residential acres (depending on city population), provided the site was located within a designated urban reserve, non-resource lands or an area with an acknowledged exception to Goal 3. Additionally, the city would have had to adopt a conceptual plan for the site as an amendment to its comprehensive plan. This plan would have addressed minimum density standards (varied by region), the integration of a transportation network (including non-vehicle options) and neighborhood commercial areas, open spaces and natural hazards, ensured the provision of necessary infrastructure, and provided that at least 30% of the residential units were available to households with incomes with less than 130% of area median income.

The bill would have also allowed Metro to review petitions for UGB amendments, along with approved conceptual plans, up to a total of 600 acres in the region.

HB 3414 would have directed DLCD to review any UGB amendment and conceptual plan for compliance with the statute and, in cases of non-compliance, remand to the city or Metro with specific issues and deficiencies.

The authority to adopt UGB amendments under this act would have expired as of January 2, 2033, and a city would have been limited to a single amendment under this act in this time.

Award of Attorney Fees

Finally, HB 3414 would have required the Land Used Board of Appeals to grant attorney fees to an applicant and a local government approving a development application if the court confirms the approval of the application or reverses the denial of the application.

SB 873 – Bioengineering Erosion Management Rulemaking

Chief Sponsor: Sen. Brock Smith and Sen. Anderson

Summary: SB 873 would have directed the LCDC to adopt rules to allow soil bioengineering systems to be used for shoreline stabilization in estuaries, coastal shorelands, and the ocean shore by January 1, 2026. Requires that the rulemaking include adopting a definition of "soil bioengineering systems" that includes natural materials that are dynamic and absorb wave energy, and that are meant to mimic natural systems.. The bill would have required that the rulemaking ensure that soil bioengineering systems conform with statewide land use planning goals and that land use management practices and nonstructural solutions are prioritized over structural solutions in addressing problems of erosion and flooding. SB 873 would have prohibited the Commission from substantively amending any process established by rule that allows Oregon Department of Transportation to perform actions or undertake projects that use

shoreline stabilization that includes structural methods, elements, or solutions. SB 873 would have authorized DSL and OPRD, by January 1, 2027, to adopt rules conforming or consistent with the rules adopted by the Commission.

SB 678 – Offshore Wind Energy Community Engagement and Public Benefits

Chief Sponsors: Sen. Knopp, Sen. Brock Smith, and Sen. Weber

Summary: SB 687 would have established policy of the State related to benefits from offshore wind energy development and local and regional communities and economies. The bill would have required DLCD to conduct outreach and engage and coordinate with state agencies, local governments, and affected communities to carry out policies of state established by the Act.

Establishes policy of the State to:

- Support engagement between offshore wind energy developers and certain communities and entities;
- Minimize and mitigate adverse effects of survey activity related to offshore wind leasing while maximizing benefits; and
- Promote economic diversification and resilience.

SB 687 also requires DLCD to continue federal consistency review of offshore wind leasing and draft a report on the engagement and outreach, review state policies on offshore wind, provide recommendations for improving state policy.

If you have questions or comments about the report or other legislation, please contact DLCD Legislative and Policy Coordinator, Alexis Biddle, at (971) 718-4504, or Alexis.Biddle@dlcd.oregon.gov

Draft Framework: Housing Production Proposal
(Draft proposal components with high-level policy parameters)

Legislator, agency, partner, and stakeholder input:

1. Do you have any additional feedback on the components?
2. Do you support or have concerns with the high-level policy changes to the HB3414B components? What additional input or recommendations do you have?
3. Do you support or have concerns with the high-level policy parameters for the additional components? What additional input or recommendations do you have?
4. As additional policy and technical detail on each of the components is added to draft an LC, what feedback or recommendations would you like to share to inform that process?

Major HB3414B Policy Changes

1. Housing Accountability and Production Office section

- a. Clarification of HAPO/LUBA roles and responsibilities re: appeals
- b. Clarify that HAPO staff determine if a claim meets the standard of investigation
- c. Add voluntary mediation for cities and housing developers as a service provided
- d. Add a coordination role with state agencies involved in the housing development process to support cities and housing developers

2. Mandatory design and development adjustments section

- a. Add minimum density threshold for eligibility – projects meeting whichever is greater, the current density minimums in the city’s development code, or the following:
 - i. 20 dwelling units per acre in Metro
 - ii. 5 dwelling units per acre for cities within Baker, Crook, Gilliam, Grant, Harney, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wheeler Counties
 - iii. 6 dwelling units per acre for cities within Clatsop, Coos, Curry, Jefferson, Klamath, Lincoln, and Tillamook Counties
 - iv. 10 dwelling units per acre for all other cities
- b. Add exemption from requirement for cities that can demonstrate, with DLCD review and approval, that:
 - i. A current local process exists for design and development adjustments for all residential development in all areas of the city
 - ii. All design and development adjustments in HB3414B are eligible adjustments in the existing local process
 - iii. At least 90% of design and development adjustment requests in the last 10 years have been approved
- c. Adjust bill language as needed to make it clear that design and development standards related to natural resources and environmental protections are not included

- d. To the extent possible, establish objective standards for all design and development adjustments
- e. Clarify that each adjustment type, even those listed in the same bullet, are a single adjustment for the purposes of a maximum of 10 adjustments
- f. Separate design and development standards adjustments for detached single family vs middle housing, multifamily, and mixed use residential
 - i. For detached single family housing, remove or modify adjustments that are only applicable to middle housing, multifamily housing, and mixed use residential

3. One-time alternative UGB expansion process

- a. Include a demonstration of need requiring cities to meet one of two criteria:
 - i. Need for additional land demonstrated by having 75% of land added to UGB in last 20 years fully annexed and zoned, or
 - ii. Need for additional affordable housing, where:
 - 1. The median home sales price for the previous 12 months exceeded 150% of the affordable home price for a household at 130% AMI, or
 - 2. The median rent for the previous 12 months exceeded 125% of the affordable rent for a household at 80% AMI
- b. Adjust minimum density requirements to whichever is greater, the current density minimums in the city's development code, or the following:
 - i. 20 dwelling units per acre in Metro
 - ii. 5 dwelling units per acre for cities within Baker, Crook, Gilliam, Grant, Harney, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wheeler Counties
 - iii. 6 dwelling units per acre for cities within Clatsop, Coos, Curry, Jefferson, Klamath, Lincoln, and Tillamook Counties
 - iv. 10 dwelling units per acre for all other cities
- c. Lower the percentage of market rate units that can be constructed in a development prior to construction commencing on affordable or moderate-income housing units (*potential change, additional stakeholder feedback needed*)
- d. Add a claw-back or penalty provision if the affordable or moderate-income housing units are not developed within a certain time frame (*potential change, additional stakeholder feedback needed*)
- e. Potential additional alternative options – cities to choose the main option or one of the alternative options (*potential change, stakeholder feedback needed*):
 - i. Allow cities to pursue a simplified land exchange to provide acreage and reduce the net impact
 - ii. Allow cities to pursue a smaller scale one-time alternative UGB expansion with fewer requirements than HB3414B in exchange for less acreage

Added Components

1. Funding for local governments for site acquisition and readiness for housing

- a. Minimum density requirements: whichever is greater, the current density minimums in the city's development code, or the following:

- i. 20 dwelling units per acre in Metro
 - ii. 5 dwelling units per acre for cities within Baker, Crook, Gilliam, Grant, Harney, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wheeler Counties
 - iii. 6 dwelling units per acre for cities within Clatsop, Coos, Curry, Jefferson, Klamath, Lincoln, and Tillamook Counties
 - iv. 10 dwelling units per acre for all other cities
 - b. Geographic distribution:
 - i. At least 20% of funds for cities with populations less than 25,000
 - ii. At least 40% of funds for cities with populations between 25,000 and 100,000
 - c. Eligible applicants:
 - i. Cities, counties, and tribal councils
 - ii. Special districts in partnership with cities, counties, or tribal councils
 - iii. Affordable and moderate-income housing developers in partnership cities, counties, or tribal councils
 - d. Funding structure:
 - i. Grants for regulated low-income housing
 - ii. Revolving loan fund for moderate-income housing
 - e. Match requirement:
 - i. No match for regulated low-income housing
 - ii. 25% match for moderate-income housing
 - f. Eligible Uses:
 - i. Site acquisition costs
 - ii. Site mitigation and readiness costs
 - g. Review criteria:
 - i. Prioritization of applications in cities and counties with greatest need for housing production and housing affordability
 - ii. Prioritization of projects with the highest number of (1) affordable and (2) moderate- income housing units per subsidy
- 2. Funding site specific water, sewer, stormwater, and transportation infrastructure for housing**
- a. Minimum density requirements: whichever is greater, the current density minimums in the city's development code, or the following:
 - i. 20 dwelling units per acre in Metro
 - ii. 5 dwelling units per acre for cities within Baker, Crook, Gilliam, Grant, Harney, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wheeler Counties
 - iii. 6 dwelling units per acre for cities within Clatsop, Coos, Curry, Jefferson, Klamath, Lincoln, and Tillamook Counties
 - iv. 10 dwelling units per acre for all other cities
 - b. Geographic distribution:
 - i. At least 20% of funds for cities with populations less than 25,000
 - ii. At least 40% of funds for cities with populations between 25,000 and 100,000
 - c. Eligible applicants:

- i. Cities, counties, and tribal councils
 - ii. Special districts in partnership with cities, counties, or tribal councils
 - d. Funding structure:
 - i. Grants for regulated low-income housing
 - ii. Forgivable loans for moderate income housing
 - iii. Revolving loan fund for all other housing
 - e. Match requirement:
 - i. No match for regulated low-income housing
 - ii. 25% match for moderate-income housing
 - iii. 50% match for all other housing
 - f. Eligible uses:
 - i. Site specific construction design and engineering costs
 - ii. Site specific infrastructure construction costs
 - g. Review criteria:
 - i. Prioritization of cities with greatest need for housing production and housing affordability, and cities with the lowest ability to capitalize infrastructure funding
 - ii. Prioritization of projects with the highest number of (1) affordable and (2) moderate-income housing units per subsidy
 - h. Delivery mechanism:
 - i. Establish a suballocation within the ODOT immediate opportunity fund for the administering site-specific transportation infrastructure funding for housing projects
 - ii. Establish a suballocation within the special public works fund for administering site-specific water, sewer, and stormwater infrastructure funding for housing projects
 - iii. Establish the infrastructure financing authority as a one stop point of contact for accessing site-specific infrastructure funding for housing
 - 1. Require the infrastructure financing authority to coordinate with the Housing Accountability and Production Office in structuring eligibility and use parameters, review and prioritization criteria, etc.

3. Funding for moderate income housing financing

- a. Minimum density requirements: whichever is greater, the current density minimums in the city's development code, or the following:
 - i. 20 dwelling units per acre in Metro
 - ii. 5 dwelling units per acre for cities within Baker, Crook, Gilliam, Grant, Harney, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wheeler Counties
 - iii. 6 dwelling units per acre for cities within Clatsop, Coos, Curry, Jefferson, Klamath, Lincoln, and Tillamook Counties
 - iv. 10 dwelling units per acre for all other cities
- b. Geographic distribution:
 - i. At least 20% of funds for cities with populations less than 25,000
 - ii. At least 40% of funds for cities with populations between 25,000 and 100,000

- c. Funding, eligibility, and review structure:
 - i. Modeled after HB2980A (2023), with policy and technical adjustments
- d. Review criteria:
 - i. Prioritization of cities with greatest need for housing production and housing affordability
 - ii. Prioritization of projects with the highest number moderate-income housing units per subsidy

4. Incentive based climate programs for housing

- a. Additional funding for heat pumps, building on SB 1536 (2022)
- b. Direct Department of Revenue to identify recommendations on developing an Oregon specific heat pump tax credit to complement federal tax credits
- c. Federal Funding:
 - i. Direct OHCS and state agencies involved in the housing development process to provide housing developers information on current tax incentives and direct pay incentives, both of which are private sector-directed
 - ii. Develop a “Climate Bonus” program for new and existing moderate and low-income housing construction
 - 1. Direct agencies to develop a cross-federal funding-sector program to braid programs together and offer a financial bonus incentive if housing construction or retrofits meets certain criteria (e.g., homes that are affordable and comfortable to live in – 100% electric, meet new reach codes, and/or transit-oriented development)
 - 2. Direct ODOE to identify where federal home energy rebates and funds can be prioritized for these types of housing construction and retrofits.
 - a. Electric and efficiency upgrades for housing development and housing retrofits
 - b. Climate pollution reduction grants prioritizing clean and affordable housing/transportation items identified the state action plans with an emphasis on supporting transit-oriented housing development
 - c. Solar for All focused on benefits from solar energy to low-income households and disadvantaged communities, with an emphasis on higher density housing
 - iii. All federal funding must meet Justice40 benchmarks, where 40% of program benefits must flow to disadvantaged and minority communities.
- d. Geographic distribution:
 - i. At least 20% of funds for cities with populations less than 25,000
 - ii. At least 40% of funds for cities with populations between 25,000 and 100,000
- e. Funding, eligibility, and review structure:
 - i. Set a table for the intersection of climate and housing for additional stakeholder feedback on these elements
- f. Additional considerations/options:

- i. Many large cities fast-track permit applications if they meet sustainable criteria. This could be something that the state suggests to local governments.

5. Temporarily require Type III land use applications for needed housing be processed under Type II procedures

- a. Add exemption from requirement for cities that can demonstrate, with DLCD review and approval, that the requirement creates a financial hardship due to substantial increased costs moving from type III to type II land use review procedures

6. Funding to BCD and DLCD to expand ready build plans and model code programs to support local governments and housing developers

- a. These services should be coordinated through the Housing Accountability and Production Office by the respective agencies

7. Funding to study state and local timelines and standards related to public works and building permit application review with recommendations for improvements, administered by the Housing Accountability and Production Office

- a. Research should include the number of required hearings for residential or mixed-use projects and the median time between project milestones (*i.e., application filed, application accepted, review of application, public hearing scheduled, project appeal process, environmental review, application approved or denied*)
- b. Recommendations should include ideas for streamlining review and hearing requirements and processes

8. Develop a regional infrastructure coordinator program to support local water, sewer, stormwater, and transportation infrastructure planning and financing

- a. State staff or contractors to provide temporary capacity support to local governments, special districts and federally recognized tribes in infrastructure planning and financing
- b. Support local governments, special districts, and federally recognized tribes in maximizing local financing opportunities, and seeking state and federal opportunities through grant navigation, writing and review, technical support, resource sharing and regional collaboration support