



## Housing Land Advocates

July 9, 2018

By Email [rick.hohnbaum@ci.monroe.or.us](mailto:rick.hohnbaum@ci.monroe.or.us)

City of Monroe Planning Commission  
c/o Rick Hohnbaum  
664 Commercial St.  
Monroe, OR 97456

Re: HLA Comments on ADU Ordinance – File No. 18-11

Dear Commissioners:

Housing Land Advocates (HLA) is a non-profit organization that advocates for land use policies and practices that ensure an adequate and appropriate supply of affordable housing for all Oregonians. Please include these comments in the record for the above-referenced proposed amendment.

HLA writes to support the city's decision to adopt an ADU ordinance even though it is not required to under Senate Bill 1051 because of its small population. We agree with the city that permitting ADUs will help the city achieve its needed housing goals.

We offer two suggestions. First, the city should consider removing the owner occupancy requirement for a property owner to be allowed to construct an ADU. HLA believes that owner-occupancy requirements prevent the main unit from being rented and is contrary to providing more housing options, particularly affordable housing options, within the city limits. If length of occupancy is a concern, there are other ways, such as minimum rental periods, that can achieve a consistent level of tenure in a unit, while not penalizing people who cannot afford homeownership from finding a place to live.

HLA's second suggestion is to provide Goal 10 findings. The city is required to adopt findings against the Statewide Planning Goals, and should use this amendment as an opportunity to describe housing challenges in the City of Monroe. If the city has a buildable lands inventory and housing needs analysis, these documents should be reviewed and considered in making Goal 10 findings. At HLA's 2018 annual conference, we provided guidance for Goal 10 findings. I have attached a copy of these recommendations to the this letter.

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Thank you for your attention to these comments, and thank you for taking an active step to making more land available for affordable housing. Please provide written notice of the decision to HLA, c/o Jennifer Bragar, at 121 SW Morrison Street, Suite 1850, Portland, OR 97204.

Sincerely,



Jennifer Bragar  
President



[Date]

[Address Block]

Re: Statewide Planning Goal 10 (Housing) and the Obligations of Oregon Cities and Counties

Dear \_\_\_\_\_:

This letter is submitted jointly by Housing Land Advocates (HLA) and the Fair Housing Council of Oregon (FHCO). Both HLA and FHCO are non-profit organizations that advocate for land use policies and practices that ensure an adequate and appropriate supply of affordable housing for all Oregonians. FHCO's interests relate to a jurisdiction's obligation to affirmatively further fair housing.

Beginning in 2015, HLA and FHCO began a project to review post-acknowledgement plan amendments (PAPAs) across Oregon when those amendments either have insufficient Statewide Planning Goal 10 (Goal 10) findings or the Goal 10 findings do not support adoption of the amendment. Over the course of the project, FHCO and HLA have reviewed more than 800 PAPAs. There are three goals of the project: (1) to protect and promote affordable housing by reminding local governments of their Goal 10 obligations and, when necessary, preserving error in the record for appeal to the Land Use Board of Appeals; (2) to raise awareness of Goal 10 requirements; and (3) to determine whether a PAPA's adoption would violate the Fair Housing Act by discriminating against protected classes through disparate impact.

In line with our goal of raising awareness of Goal 10 requirements, we created a checklist of items to consider in reviewing land use decisions and creating staff reports. Every project and every PAPA is different, but hopefully what is listed below may serve as a general checklist when Goal 10 is at issue. Additionally, at the end of the letter are links to helpful resources.

### **Goal 10 Requirements**

The creation or amendment of a comprehensive plan or land use regulation<sup>1</sup> must comply with the Statewide Planning Goals. ORS 197.175(2)(a).<sup>2</sup> Goal 10 requires: "Buildable lands for

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<sup>1</sup> Zoning map amendments, for example, are land use regulations and subject to LUBA review under the PAPA process. *Northeast Neighborhood Coalition v. City of Medford*, 53 Or. LUBA 277 (2007).





residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.” OAR 660-015-0000(10).

Therefore, if a PAPA considers a change to the plan or zoning designation of land (as well as text amendments to a plan or land use regulation), then **Goal 10 is at issue and must be addressed** because the land in question could be zoned for a variety of purposes, including housing of various densities. If Goal 10 is at issue, then the staff report must support one of three alternatives: (1) the jurisdiction is already compliant with Goal 10 and will continue to be compliant regardless of how the land will be used, (2) the land was and is not designated for residential development and the proposed amendment is not contrary to Goal 10’s aim to provide needed housing, or (3) the proposed use is the use that meets the housing needs of present and future residents under Goal 10.

### **Satisfying Goal 10 Requirements**

To satisfy Goal 10 requirements in a staff report, the jurisdiction must have already completed and adopted a Buildable Lands Inventory (BLI) and a Housing Needs Analysis (HNA)—see the links at the end of the letter for BLI and HNA examples.

The HNA and BLI need to be used in combination to show either that the jurisdiction presently has and will continue to have sufficient buildable lands for the types of housing needed to support the population according to the projection of the HNA, or the staff report needs to show that the proposed change is serving to bring the jurisdiction closer to meeting its Goal 10 obligations by addressing a need identified in the HNA that is not presently provided for in the BLI.

It is important to note that just because a proposal adds housing units, that proposal does not necessarily comply with Goal 10—the jurisdiction still must show that it is adding needed residential zones (i.e., multifamily vs. single family). The jurisdiction must demonstrate that its actions do not leave it with less than adequate residential land supplies in the types, locations, and affordability ranges affected. See *Mulford v. Town of Lakeview*, 36 Or LUBA 715, 731

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<sup>2</sup> **Both** plan or land use regulatory amendments are subject to the “PAPA process.” ORS 197.610 states in relevant part:

Before a local government adopts a change, including additions or deletions, to an acknowledged comprehensive plan *or land use regulation*, the local government shall submit the proposed change to the Direction of the Department of Land Conservation and Development. \* \* \*

This means that zoning ordinance text and map amendments are subject to the PAPA process.



(1999) (rezoning residential land for industrial uses); *Gresham v. Fairview*, 3 Or LUBA 219 (same); see also, *Home Builders Assn. of Lane County v. City of Eugene*, 41 Or LUBA 370, 422 (2002) (subjecting Goal 10 inventories to tree and waterway protection zones of indefinite quantities and locations).

### **Goal 10 Findings Checklist**

- Does the amendment involve a land use designation or the permitted/conditional use of land?
- Has the jurisdiction adopted a Housing Needs Analysis (HNA)?
- Has the jurisdiction adopted a Buildable Lands Inventory (BLI)?
- Given the HNA and BLI, is there a shortage of certain housing types at present or a predicted shortage in the future?
- Does the PAPA zone the land at issue to meet that need and decrease the shortage?
  - If yes, how?
    - Is the shortage addressed the greatest shortage?
      - I.e., If the zone change is from multi-family to single-family and a city substantially lacks multifamily housing, but has a relatively minor predicted shortage of single-family housing, then even though single-family units are added, Goal 10 might not be satisfied if the PAPA adds more single-family housing instead of filling the greater need of multifamily housing.
    - Does the PAPA use the most efficient means to meet the need (i.e., if the PAPA is adding multifamily land, could it add multifamily zoned land at a higher density)?
  - If no, why not?
    - Is the land at issue suitable for development of the lacking housing type (i.e., slope, wetlands, etc.)?
    - Is there a competing requirement of a different Statewide Planning Goal (i.e., Goal 3 agricultural land requirements)?

### **Online Resources**

LCDC Measures to Encourage Affordable and Needed Housing:

<http://www.oregon.gov/LCD/docs/Affordable%20and%20Needed%20Housing%20Measures.pdf>.

The Housing Element of the City of Central Point's comprehensive plan is well done and contains a good example of a BLI:

[http://www.centralpointoregon.gov/documents?field\\_microsite\\_tid=21](http://www.centralpointoregon.gov/documents?field_microsite_tid=21).



The City of Hood River adopted a thorough and complete HNA, which is available here:  
<http://ci.hood-river.or.us/planning>.

The Housing Needs Analysis in Metro's 2014 Urban Growth Report is another example and shows the scale of the affordable housing shortage in the Portland-Metro Area:

<https://www.oregonmetro.gov/sites/default/files/2015/10/27/2014UGR-Appendix-4-Housing-Needs-Analysis-final.pdf>.

Examining PAPAs for Goal 10 issues at the first iteration of the staff review process will hopefully make for a smooth process that adequately considers the housing needs of Oregonians and addresses the present need for affordable housing across our state.

Sincerely,

A handwritten signature in blue ink that reads "Louise Dix".

Louise Dix  
AFFH Specialist  
Fair Housing Council of Oregon

A handwritten signature in blue ink that reads "Jennifer Bragar".

Jennifer Bragar  
President  
Housing Land Advocates